

No. 12131

United States
Court of Appeals

for the Ninth Circuit

TIGHE E. WOODS, Housing Expediter, Office of
the Housing Expediter,

Appellant,

vs.

SYDNEY MARK TAPER, HARDING MANOR,
INC., WARDLOW HEIGHTS, INC., and
WARDLOW ANNEX, INC.,

Appellees.

Transcript of Record

Appeal from the United States District Court
for the Southern District of California
Central Division

FILED

MAR 4 - 1949

PAUL P. O'BRIEN,

United States
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for the Ninth Circuit

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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* Page numbering appearing at foot of page of original certified Transcript of Record.

In the District Court of the United States, Southern
District of California, Central Division

No. 8451-PH

TIGHE E. WOODS, Housing Expediter, Office
of the Housing Expediter,

Plaintiff,

vs.

SYDNEY MARK TAPER, HARDING MANOR,
INC., a corporation, DOE I, DOE II, and
DOE III,

Defendants.

COMPLAINT FOR PRELIMINARY AND
FINAL INJUNCTION AND FOR OTHER
RELIEF.

I.

Plaintiff, as Housing Expediter, Office of the
Housing Expediter, brings this action for an in-
junction and other appropriate relief pursuant to
Section 206 of the Housing and Rent Act of 1947
as amended, for the purpose of enjoining the de-
fendants from evicting from the hereinafter de-
scribed housing accommodations the hereinafter
described persons.

II.

Jurisdiction is conferred on this Court by Sec-
tion 206 of the Housing and Rent Act of 1947 as
amended.

III.

The defendant, Harding Manor, Inc., is a cor-
poration duly organized and existing under the
laws of the State of California. [2]

IV.

At all times hereinafter mentioned defendants were the landlords of the housing accommodations located at 2538 Gale Avenue, Long Beach, California.

V.

At all times hereinafter mentioned there was in effect in the Los Angeles Defense Rental Area a Controlled Housing Rent Regulation (12 F. R. 4331).

VI.

At all times hereinafter mentioned the housing accommodations hereinafter described were subject to said aforementioned Act and Regulation and particularly Section 209 of said Act.

VII.

That the defendants, Doe I, Doe II and Doe III, are the fictitious names of the defendants, whose true names are to this plaintiff unknown, and plaintiff ask that when these true names are discovered this complaint may be amended by inserting such true names in the place and stead of such fictitious names. Wherever the word "defendant" is used in this complaint, it shall include all of the defendants individually and collectively herein sued.

VIII.

That the defendants are residents within the County of Los Angeles, State of California, have their principal place of business within said County, and are within the jurisdiction of this Court.

IX.

That on or about June 3, 1948, the defendants, as landlords, commenced proceedings to evict from the housing accommodations at 2538 Gale Avenue at Long Beach, California, one, Alvin L. Fite, a tenant thereof and other persons lawfully in occupancy thereof, by serving a Notice to Quit, basing said notice expressly on the landlord's desire in good faith to recover possession of such housing accommodations for the immediate purpose of withdrawing such housing accommodations from the rental market and such housing accommodations shall not thereafter be offered for rent as such. That the defendants commenced such proceedings and served such notice for the expressly avowed purpose of making [3] said housing accommodations vacant in order that the same might be sold to persons who would purchase such housing accommodations for use as their residences.

X.

That defendants are engaged in evicting tenants from other properties of which they are the landlords, individually and under the guise of corporate structure, by serving notices to quit similar to the notice described in Paragraph IX of this complaint and with the same express avowed purpose alleged in said Paragraph IX, of which four such instances are known to plaintiff.

XI.

That said acts hereinabove alleged are in violation of the provisions of the Housing and Rent Act of 1947 as amended, that unless defendants are

restrained from further acts in furtherance of their design set forth above, they will evict said tenants and said defendant Sydney Mark Taper and Wardlow Annex, Inc., and Wardlow Heights, Inc., of which he is president and a major stockholder, will proceed to evict numerous tenants in numerous housing accommodations under similar circumstances and for similar purposes as hereinabove set forth.

Wherefore, the plaintiff demands:

A preliminary and final injunction enjoining the defendants, their agents, servants, employees, and all persons in active concert or participation with them from:

1. Evicting said Alvin L. Fite and other persons now in occupancy at the premises at 2538 Gale Avenue, Long Beach, California, from said premises.

2. Engaging in any action or course of action, the purpose of which is to evict illegally tenants from the above-described premises, or any other housing accommodations owned, controlled, or managed by the defendants, or from evicting said tenants in any form or manner contrary to the Housing and Rent Act of 1947 and Regulations issued thereunder, as heretofore or hereafter amended or superseded. [4]

3. Directly or indirectly demanding or receiving amounts in excess of the maximum legal rent, or from discontinuing, withholding, suspending, or shutting off the normal supply of heat, light, gas, hot and cold water, janitorial services, or other es-

sential services and utilities, or threatening to do any of the foregoing.

4. Violating the Housing and Rent Act of 1947, as amended, and Regulations issued thereunder, as heretofore or hereafter amended or superseded.

5. Violating the Housing and Rent Act of 1947, as amended, or superseded, by accepting, demanding, or receiving, in any form or manner, rents higher than the established maximum rent prescribed therein.

Dated: Los Angeles, California, this 20th day of July, 1948.

ABE I. LEVY,

STEPHEN D. MONAHAN,

FRANK L. HIRST,

RICHARD G. SOLOF,

By /s/ CASSEL JACOBS,

Attorneys for Plaintiff. [5]

State of California,

County of Los Angeles,

United States of America—ss.

Ruth Rauh, being first duly sworn, deposes and says:

That plaintiff is absent from the County of Los Angeles; that the undersigned is an employee of the United States Government, and during the time specified in the complaint, as hereinabove set forth, she was employed as a Compliance Negotiator for the Office of the Housing Expediter, as agency of the United States Government; that in the course of her duty as a Compliance Negotiator for the

Office of the Housing Expediter she made an investigation of and became familiar with the facts involved in the above-mentioned action; that she has read the foregoing complaint and knows the contents thereof; and that the same is true of her own knowledge, except as to the matters which are therein stated upon information and belief, and as to those matters that she believes it to be true.

/s/ RUTH RAUH.

Subscribed and Sworn to before me this 19th day of July, 1948.

/s/ H. C. ZECH,

Notary Public, in and for said
County and States.

My Commission expires Oct. 26, 1951.

[Endorsed]: Filed July 20, 1948. [6]

[Title of District Court and Cause.]

AFFIDAVIT OF CHARLES H. BLAYLOCK

State of California,
County of Los Angeles—ss.

I, Charles H. Blaylock, having been first duly sworn, depose and say, as follows:

That I am Associate Area Rent Director for the Los Angeles Defense Rental Area, Office of the Housing Expediter, in charge of the operations of the Los Angeles Defense Rental Area Office at Long Beach, California. That I am familiar with the records of the Los Angeles Defense Rental Area Office relating to the housing accommodations located at the following addresses:

2538 Gale Avenue, Long Beach, California, and 3557 Fashion Avenue, Long Beach, California.

That said records of the Area Rent Office relating to said housing accommodations show that said housing accommodations are controlled housing accommodations and that they are subject to the provisions of the Rent Regulation [8] for Controlled Housing. Mr. Sydney Mark Taper and corporations with which he is associated are the landlords of numerous housing accommodations in the Long Beach Area.

Dated: July 15th, 1948.

/s/ CHARLES H. BLAYLOCK.

Subscribed and sworn to before me this 15th day of July, 1948.

/s/ CORA A. KIRCHNER,

Notary Public, in and for the
above County and State.

My Commission Expires Nov. 11, 1951. [9]

[Title of District Court and Cause.]

AFFIDAVIT OF RUTH RAUH

State of California,
County of Los Angeles—ss.

I, Ruth Rauh, having been first duly sworn, depose and say, as follows:

That I am an employee of the Los Angeles Defense Rental Area Office, Office of the Housing Expediter, and my duties relate to housing accommodations in the Long Beach, California, Area. That as such employee I interviewed Mr. Harold C.

Frerks, Attorney for Sydney Mark Taper, President of Wardlow Heights, Inc., Harding Manor, Inc., and Wardlow Annex, Inc. That Mr. Frerks, as attorney for Mr. Taper, signed the following statement which is on file in the records of the Los Angeles Defense Rental Area Office at Long Beach, California:

“I believe that the O.H.E. opinion as to this section relates to where a certain purchaser or sale is involved, and not as to where a landlord intends to get possession [10] so that he can redecorate or add a room to the place for any future sale to parties unknown, who will occupy the place for themselves and not for rental purposes. H. C. Frerks.”

That the above statement of Mr. Frerks was made in connection with a notice to quit, served by Harding Manor, Inc., on Alvin L. Fite, et al, respecting the premises at 2538 Gale Avenue, Long Beach, California, and concerning an eviction notice served by Wardlow Annex, Inc., by S. M. Taper, on Max Ravnitzky, et al, relating to the premises at 3733 Easy Avenue, Long Beach, California.

That the statement had reference to housing and to Memorandum No. 51 issued by B. W. Diggle, Deputy Housing Expediter, Rent Operations, and Robert A. Sauer, Assistant General Counsel, Regulations and Appeals Branch, Office of the Housing Expediter, Washington, D. C., which states, in part, as follows:

“To Secure Vacant Possession for Purposes of Sale.

“Section 209(a)(5) permits eviction where ‘the landlord seeks in good faith to recover possession of such housing accommodations for the immediate purpose of withdrawing such housing accommodations from the rental market . . .’ Since this is only one of several grounds for eviction under the Act, it is clear that it was not intended that this section should broaden or defeat the purpose of limitations placed in the other grounds. It follows, therefore, that since Section 209(a)(3) provides for eviction where ‘the landlord has in good faith contracted in writing to sell the housing accommodations to a purchaser for the immediate and personal use and occupancy as housing accommodations by such purchaser;’ Section 209(a)(5) may not be used in cases where sales are involved. That is to say, since a tenant may be evicted for occupancy by a purchaser under Section 209(a)(3), a landlord may not evict under Section 209(a)(5) for the purpose of obtaining vacant possession in order to sell. [11]

“Section 206(b) of the Act authorizes the Housing Expediter to seek injunction against violations of the eviction provisions and consequently, any violations of the eviction restriction referred to above may be referred to Litigation for appropriate action.”

Mr. Frerks further stated to me, at the time he signed the above statement on June 11, 1948, at the Long Beach Office of the Housing Expediter, 110 East Anaheim Street, Long Beach, California, that the above premises are to be repaired and generally

remodeled and eventually sold to prospective purchasers, that it is the intention to take the cases into court for the court's decision on eviction. I advised Mr. Frerks that the reason stated in the notice to quit would seem to be in violation of Section 209(a)(5) of the Housing and Rent Act of 1947 as amended, in that it does involve a sale of the housing accommodations.

It is my impression, as a result of my conversation with Mr. Frerks that his clients named above are about to commence eviction proceedings in numerous instances.

Dated: July 15th, 1948.

/s/ RUTH RAUH,

Subscribed and sworn to before me this 15th day of July, 1948.

/s/ CORA A. KIRCHNER,

Notary Public, in and for the
above County and State.

My Commission Expires Nov. 11, 1951. [12]

[Title of District Court and Cause.]

AFFIDAVIT OF ALVIN L. FITE

State of California,
County of Los Angeles—ss.

I, Alvin L. Fite, having been first duly sworn, depose and say, as follows:

That on or about June 3, 1948, Harding Manor, Inc., by S. M. Taper, President, as landlord of the premises wherein I reside at 2538 Gale Avenue,

Long Beach, California, served me with a written notice to quit said premises at the expiration of sixty days of the notice.

Dated: July 3, 1948.

/s/ ALVIN L. FITE.

Subscribed and sworn to before me this 3rd day of July, 1948.

/s/ N. H. STEARNS,

Notary Public, in and for
above County and State.

My Commission expires Feb. 24, 1951.

[Endorsed]: Filed July 20, 1948. [13]

[Title of District Court and Cause.]

ORDER TO SHOW CAUSE

Upon reading the verified complaint, memorandum of points and authorities and affidavits filed by plaintiff, and good cause appearing therefor:

It Is Hereby Ordered that defendants Sydney Mark Taper and Harding Manor, Inc., appear before this Court in Courtroom number 3 on the second floor of the United States Post Office and Courthouse Building, 312 North Spring Street, Los Angeles, California, on the 26th day of July, 1948, at 10:00 o'clock a.m. in the forenoon, or as soon thereafter as the matter can be heard, and show cause, if any there be, why this Court, pending trial of this action, should not grant a preliminary injunction restraining the defendants, their agents, servants and employees and all persons in active concert or participation with them according to the prayer of the complaint.

It Is Further Ordered that a copy of the affidavits and points and [14] authorities filed by the plaintiff and a copy of this order be served with the summons and complaint herein upon defendants Sydney Mark Taper and Harding Manor, Inc., not later than the 22nd day of July, 1948.

Dated: Los Angeles, California, this 20th day of July, 1948.

/s/ PAUL J. McCORMICK,
Judge.

[Endorsed]: Filed July 20, 1948. [15]

[Title of District Court and Cause.]

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The plaintiff having filed his verified complaint and his affidavits and memorandum of points and authorities in support of his motion for preliminary injunction and the defendants, Sydney Mark Taper, and Harding Manor, Inc., through its President, Sydney Mark Taper, each having been personally served with a copy of the verified complaint, a copy of the order to show cause, a copy of the memorandum of points and authorities and affidavits in support of plaintiff's motion for preliminary injunction on the 22nd day of July, 1948, and the cause having come on regularly for hearing on the 26th day of July, 1948, before the Honorable Pierson M. Hall, Judge Presiding, and the plaintiff being represented by Frank L. Hirst, Esq., and said defendants not appearing in person or by counsel,

and said cause having been continued by order of the Court for hearing to the 27th day of July, 1948, at 10:00 o'clock a.m., at which time the cause was submitted on plaintiff's verified complaint, affidavits and memorandum of points and authorities in support of his motion [16] for preliminary injunction, no evidence having been offered in opposition to plaintiff's motion by said defendants, and no affidavits having been filed by them in opposition to said motion, and the Court having considered all of the allegations in said verified complaint and said affidavits, the said allegations being unopposed and the Court being fully apprized of the premises, makes the following findings of fact:

FINDINGS OF FACT

1. That the plaintiff as Housing Expediter, Office of the Housing Expediter, brings this action for an injunction and makes his motion for a preliminary injunction pursuant to Section 206 of the Housing and Rent Act of 1947 as amended, for the purpose of enjoining the defendants from evicting from the hereinafter described housing accommodations the hereinafter described persons.

2. That jurisdiction of this action is conferred on this Court by Section 206 of the Housing and Rent Act of 1947 as amended.

3. That the defendant Harding Manor, Inc., is a corporation, duly authorized and existing under the laws of the State of California.

4. That at all times hereinafter mentioned the defendants were the landlords of the housing ac-

accommodations located at 2538 Gale Avenue, Long Beach, California.

5. That at all times pertinent hereto there was in effect in the Los Angeles Defense Rental Area a Controlled Housing Rent Regulation (12 F.R. 4331).

6. That at all times pertinent hereto the housing accommodations hereinabove described were subject to said aforementioned Act of Regulation, particularly Section 209 of said Act.

7. That the defendants Sydney Mark Taper and Harding Manor, Inc., are residents within the County of Los Angeles, State of California, having their principal place of business within said county and are within the jurisdiction of this Court.

8. That on or about June 3, 1948, said defendants, as landlords, commenced proceedings to evict from the housing accommodations at 2538 Gale Avenue, Long Beach, California, one, Alvin L. Fite, a tenant thereof, and other persons [17] lawfully in occupancy thereof by serving upon the said Alvin L. Fite a Notice to Quit, basing said notice expressly on the landlord's desire in good faith to recover possession of said housing accommodations for the immediate purpose of withdrawing said housing accommodations from the rental market and such housing accommodations are not thereafter to be offered for rent as such.

9. That said defendants commenced such proceedings and served such notice for the expressly avowed purpose of making said housing accommo-

dations vacant in order that the same might be redecorated and thereafter sold to persons who would purchase such housing accommodations for use as their residences.

10. That said defendants are engaged in evicting tenants from other housing accommodations subject to said Act and said Regulation of which they are the landlords individually and under the guise of corporate structure by serving notices to quit similar to the notice to quit hereinabove described and with the same expressly avowed purpose as hereinabove set forth.

11. That unless defendants are restrained from further acts in furtherance of their design set forth above they will evict said tenant and said Sydney Mark Taper and Harding Manor, Inc., of which said Sydney Mark Taper is President and a major stockholder, will proceed to evict numerous other tenants in numerous other controlled housing accommodations owned, controlled or managed by said defendants, under similar circumstances and for the same purpose as hereinabove set forth.

From the above Findings of Fact, the Court makes the following:

CONCLUSIONS OF LAW

1. That the purpose for which said defendants Sydney Mark Taper and Harding Manor, Inc., have commenced said eviction proceedings and served said notices to quit on said Alvin L. Fite and said other tenants hereinabove referred to does not constitute a proper ground for eviction within the meaning of Section 209(a)(5) of said Housing and

Rent Act of 1947 as amended nor any other subdivision of said Section 209.

2. That the plaintiff herein is entitled to a preliminary injunction, pending the determination of the Court on plaintiff's complaint for a permanent [18] injunction, enjoining the defendants Sydney Mark Taper and Harding Manor, Inc., their agents, servants, employees, attorneys, officers and directors, and all other persons in active concert or participation with them from:

(a) Evicting Alvin L. Fite and all other persons in occupancy of the housing accommodations located at 2538 Gale Avenue, Long Beach, California, except in accordance with the provisions of Section 209 of the Housing and Rent Act of 1947 as amended and on the grounds and for the purposes stated therein.

(b) Engaging in any action or course of action, the purpose of which is to evict illegally tenants from the above-described premises, or any other housing accommodations owned, controlled, or managed by the defendants, or from evicting said tenants in any form or manner contrary to the Housing and Rent Act of 1947 and Regulations issued thereunder, as heretofore or hereafter amended or superseded.

(c) Directly or indirectly demanding or receiving amounts in excess of the maximum legal rent, or from discontinuing, withholding, suspending, or shutting off the normal supply of heat, light, gas, hot and cold water, janitorial services, or other essential services and utilities, or threatening to do any of the foregoing.

Dated: Los Angeles, California, this 27th day of July, 1948.

/s/ PIERSON M. HALL,
Judge.

Presented by:

ABE I. LEVY,
STEPHEN D. MONAHAN,
FRANK L. HIRST,
RICHARD G. SOLOF,

By /s/ FRANK L. HIRST,
Attorneys for Plaintiff.

[Endorsed]: Filed July 27, 1948. [19]

In the District Court of the United States for the
Southern District of California, Central Division

No. 8451-PH

TIGHE E. WOODS, Housing Expediter, Office of
the Housing Expediter,

Plaintiff,

vs.

SYDNEY MARK TAPER, HARDING MANOR,
INC., a corporation, DOE I, DOE II, and
DOE III,

Defendants.

DECREE FOR PRELIMINARY INJUNCTION

This cause came on regularly for hearing on the motion of the plaintiff for a preliminary injunction on July 26, 1948, before the Honorable Pierson M.

Hall, Judge Presiding, and was continued for hearing to July 27, 1948, at 10:00 o'clock a.m. Plaintiff was represented by Frank L. Hirst, Esq., and defendants Sydney Mark Taper and Harding Manor, Inc., were not present and not represented by counsel. The Court having considered plaintiff's verified complaint and affidavits and memorandum of points and authorities in support of plaintiff's motion for a preliminary injunction, said defendants not having submitted either affidavits or other evidence, and the Court having this day made its written findings of fact and conclusions of law, and being fully advised in the premises, now therefore,

It Is Hereby Ordered, Adjudged and Decreed that the defendants Sydney Mark Taper and Harding Manor, Inc., their agents, servants, employees, attorneys, officers and directors and all other persons in active concert or [20] participation with them are hereby enjoined and restrained until further order of the Court herein from:

1. Evicting Alvin L. Fite and all other persons in occupancy of the housing accommodations located at 2538 Gale Avenue, Long Beach, California, except in accordance with the provisions of Section 209 of the Housing and Rent Act of 1947 as amended and on the grounds and for the purposes stated therein.

2. Engaging in any action or course of action, the purpose of which is to evict illegally tenants from the above-described premises, or any other housing accommodations owned, controlled, or man-

aged by the defendants, or from evicting said tenants in any form or manner contrary to the Housing and Rent Act of 1947 and Regulations issued thereunder, as heretofore or hereafter amended or superseded.

3. Directly or indirectly demanding or receiving amounts in excess of the maximum legal rent, or from discontinuing, withholding, suspending, or shutting off the normal supply of heat, light, gas, hot and cold water, janitorial services, or other essential services and utilities, or threatening to do any of the foregoing.

Dated: Los Angeles, California, this 27th day of July, 1948, 4:55 p.m.

/s/ PEIRSON M. HALL,
Judge.

Presented by:

ABE I. LEVY,
STEPHEN D. MONAHAN,
FRANK L. HIRST,
RICHARD G. SOLOF,

By /s/ FRANK L. HIRST,
Attorneys for Plaintiff.

Judgment entered July 28, 1948. Docketed July 28, 1948. Book 52, Page 270.

[Endorsed]: Filed July 27, 1948. [21]

In the District Court of the United States, Southern
District of California, Central Division

Civil No. 8451-PH

TIGHE E. WOODS, Housing Expediter, Office
of the Housing Expediter,

Plaintiff,

vs.

SYDNEY MARK TAPER, WARDLOW
HEIGHTS, INC., a corporation, WARDLOW
ANNEX, INC., a corporation, and HARDING
MANOR, INC., a corporation,

Defendants.

ANSWER

Comes Now the defendants, Sydney Mark Taper,
Harding Manor, Inc., a corporation, Wardlow An-
nex, Inc., a corporation, and Wardlow Heights,
Inc., a corporation, and answering the complaint
of the plaintiff on file herein admit, deny and al-
lege as follows:

I.

Answering Paragraph V, these defendants ad-
mit that at all times mentioned in the complaint
there was in effect the Housing and Rent Act of
1947, as amended by the Housing and Rent Act
of 1948, and admit that the property of the de-
fendants is in the Los Angeles Defense Rental
Area which is a controlled housing rent area, and
that there was in effect in the Los Angeles De-
fense Rental Area a controlled housing rent regu-
lation (12 F. R. 4331). [22]

II.

Answering Paragraph IX, these defendants admit that on or about, to-wit, the third day of June, 1948, the defendant, Harding Manor, Inc., a corporation, as landlord, commenced proceedings to evict from the housing accommodations at 2538 Gale Avenue, Long Beach, California, Alvin L. Fite, a tenant thereof, and that there was served upon said Alvin L. Fite a notice to quit, which said notice set forth that the landlord desired in good faith to recover possession of the housing accommodations for the immediate purpose of withdrawing such housing accommodations from the rental market and that such housing accommodations would not thereafter be offered for rent as such. Admits that the defendant commenced the proceedings and served the notice and admits that the purpose of such notice was for the purpose of evicting the said Alvin L. Fite, but denies that there was any bad faith or other ulterior motives on the part of the said landlord and defendant Harding Manor, Inc.; denies each and every other allegation in said paragraph contained.

III.

Answering Paragraphs X and XI, these defendants deny that said acts hereinbefore referred to and as set forth in the plaintiff's complaint are in violation of the provisions of the Housing and Rent Act of 1947, as amended; on the contrary, allege that said acts are within the provisions of the regulations; deny each and every other allegation in said paragraph contained.

For a First Separate and Affirmative Defense,
These Defendants Set Forth:

I.

That the defendants are the owners of the real property described in the plaintiff's complaint and that [23] said properties have been leased to the persons mentioned in said complaint since the early part of 1945; that the property at 2538 Gale Avenue was leased to Alvin L. Fite on or about the 15th day of January, 1945, at a rental of Fifty Dollars (\$50.00) per month, which at that time was in accordance with the O.P.A. ceiling price fixed for said property.

II.

That at the time said premises were leased to Alvin L. Fite, the said Alvin L. Fite agreed to maintain said property in good order, to keep the lawns watered and to keep the premises in a clean and healthy condition.

III.

Defendants allege that the property occupied by said Alvin L. Fite was so maintained by the said Alvin L. Fite so as to be dirty, filthy and in a complete state of disrepair; that the said Alvin L. Fite permitted windows to be broken, hardwood floors to be marred and scratched with the floors being worn; that the linoleum was torn from the floor; that the window shades were broken and torn; that the premises were so misused so as to have marks on all the plaster walls; that the windows were jarred loose from the frames; that the toilet seat was broken; that the woodwork was scratched; that the

lawns were unwatered and dry to the point of needing replacement; that said Alvin L. Fite permitted the back yard to be littered with debris so as to need a complete replanting; that the screens were broken and torn; that the tile was chipped and broken; that said property was so badly abused as to cause the same to depreciate in value and become unmerchantable and unsalable. [24]

IV.

That in addition thereto, the said house was leased to the said Fite in January of 1945 at a rental of Fifty Dollars (\$50.00) per month and that since said date the cost of maintaining said property has increased as to cause the defendants to sustain a loss as a result of its rental at said figure. That the said house has a value of approximately Nine Thousand Dollars (\$9,000.00) and that the following costs and expenditures are necessary in connection with the operation of said property, to-wit:

Taxes: \$110.00 per year.

Interest to the Bank of America under FHA Insured loan, including $\frac{1}{2}\%$ FHA insurance: \$215.00 per year.

Fire insurance: \$12.00 per year.

Depreciation at 4% per year: \$294.00 per year.

Repairs consisting of redecorating or repairing the outside (on a basis of once every three years) at an average cost of \$86.00 or a cost of \$28.66 per year.

Replacement of screens at a cost of \$11.00 per year.

Repairs to plumbing, windows and miscellaneous repairs on an average of \$13.00 per year.

Total cost of maintenance of said property: \$708.00 per year, or a net cost of approximately Fifty-nine Dollars (\$59.00) per month, exclusive of any return to the defendants on their investment and exclusive of any major repairs such as the replacement of the roof, replacement of lawns, replacement of worn-out plumbing or tile, replacement of water heaters, replacement of heating system or other usual and customary replacements which have to be [25] made over a period of years, exclusive of interior decorating.

V.

Defendants further set forth that the payments which the said Alvin L. Fite was making to the defendants were in the sum of Fifty Dollars (\$50.00) per month or Six Hundred Dollars (\$600.00) per year and that the defendants were sustaining a loss of Nine Dollars (\$9.00) per month or One Hundred Eight Dollars (\$108.00) per year without taking into account any consideration for a return on the capital investment of the defendants, without allowance for the collection of rents, without allowance for the office overhead and supervisory duties of the defendants and their employees, without allowances for accounting fees and the various and sundry other charges usually entailed in the handling and rental of property.

VI.

Defendants further set forth that upon it appearing that the defendants were sustaining a loss as set forth in the preceding paragraphs, they made application with the Office of Housing Expediter, Ben C. Koepke, and that after expending several hundred dollars for obtaining the necessary information including the time of the agents and representatives of the defendants in gathering information requested by the Housing Expediter, the Housing Expediter allowed a rent increase of One and twenty-five/one-hundredths Dollars (\$1.25) per month or a total of Fifteen Dollars (\$15.00) per year, so that notwithstanding the increase in rent of One and twenty-five/one-hundredths Dollars (\$1.25) per month, the defendants were still sustaining a loss of Ninety-three Dollars (\$93.00) per year and this without allowing anything to the defendants for office overhead, collections of rents, or any return on the investment of the defendants, nor for the replacement costs of damages to the property if the same was maintained for any period of time; that notwithstanding such increase, [26] defendants were sustaining a loss of Two Hundred Twenty-five Dollars (\$225.00) per year on said house.

VII.

That thereupon, the defendants elected to remove said property from the housing market and to have said property placed in such condition at an expenditure of several hundred dollars so as to be in

a position to sell said property, and that the only purpose of reaching the conclusion to sell said property was by reason of the fact that the defendants could not obtain the necessary relief which would prevent them from taking the losses which they were sustaining from the rental of said property.

VIII.

That if said properties were not disposed of at the present time, not only would the defendants be taking a loss on their property during this time it was occupied, but that the market value of said property which is now fixed at the sum of approximately Nine Thousand Dollars (\$9,000.00) may in the future drop and that in such event, the defendants would not be able to dispose of the property at its present value; that likewise at a later date, the property may depreciate so that even at a rental of Fifty Dollars (\$50.00) per month they would then sustain great losses, whereas if the defendants were now permitted to dispose of said property they could do so without a loss and recover their investment.

For a second separate and affirmative defense, these defendants allege:

I.

Defendants adopt and reallege all of their allegations of the First Affirmative Defense and make the same a part hereof, as though the same were fully set forth at length herein.

II.

That under the Housing Act as hereinbefore referred to, [27] the defendants had the right to remove said property from the rental market and that in that connection they set forth that Title II of the Housing and Rent Act of 1947, as amended by the Housing and Rent Act of 1948, Section 209A, Subdivision 5, provides that: "The landlord seeks in good faith to recover possession of such housing accommodations for the immediate purpose of withdrawing the housing accommodations from the rental market, and such housing accommodations shall not thereafter be offered for rent as such."

III.

Defendants set forth that they do intend to recover the possession of such housing accommodations for the immediate purpose of withdrawing such housing accommodations from the rental market and the defendants represent that the said housing accommodations will not be offered for rent as such and that the defendants will not rent said housing accommodations but will remove them from the rental market; that the defendants have the right to remove said housing accommodations from the rental market and have a right to evict any tenant occupying said premises for such purposes.

Wherefore, defendants pray that they have judgment and that the preliminary injunction heretofore issued to be dissolved and that the action as to the property concerning Alvin L. Fite be dismissed; that the court decree that the defendants have the

right to evict tenants in possession for the purpose of removing said housing accommodations from the rental market upon condition that the defendants do not offer said property for rent.

ALBERT H. ALLEN &
HYMAN GOLDMAN

By /s/ ALBERT H. ALLEN,
Attorneys for Defendants.

(Acknowledgment of service attached.)

[Endorsed]: Filed August 10, 1948. [28]

[Title of District Court and Cause.]

PLAINTIFF'S REQUEST FOR ADMISSIONS
PURSUANT TO RULE 36

Plaintiff, pursuant to Rule 36 of the Federal Rules of Civil Procedure, requests the defendant Harding Manor, Inc., within ten days after the service of this Request, to make the following admissions for the purpose of this action only and subject to all pertinent objection to admissibility which may be interposed at the trial.

1. That Sydney Mark Taper is the President and owns one-half of the issued stock of Harding Manor, Inc.

2. That Sydney Mark Taper is the President and owns one half of the issued stock of Wardlow Annex, Inc.

3. That Sydney Mark Taper is the President and owns one half of the issued stock of Wardlow Heights, Inc.

4. That as President of Harding Manor, Inc. Sydney Mark Taper managed the proceeding to evict Alvin L. Fite from 2538 Gale Avenue, Long Beach, California, and also the proceedings to evict tenants described in the complaints in [30] Woods v. Taper, United States District Court, Southern District of California, No. 8452 and Woods v. Taper, United States District Court, Southern District of California, No. 8453.

5. That Sydney Mark Taper, as President of Harding Manor, Inc., retained H. C. Frerks as an attorney to evict said Alvin L. Fite and to handle the evictions described in the complaints in said case Numbers 8452 and 8453.

6. That all three of said corporations and Sydney Mark Taper taken together are the landlords of numerous residential housing accommodations in Los Angeles County occupied on the date of filing this suit by tenants.

7. That Wardlow Heights, Inc., as landlord, and Sydney Mark Taper, as President thereof, have commenced efforts to evict Lucy A. Heustis from 3500 Easy Avenue, Long Beach, Paul R. Moberly from 3533 Fashion Avenue, Long Beach, and Henry Monkiewicz from 3557 Fashion Avenue, Long Beach, by serving each of said tenants with a Notice to Quit, basing said notice expressly on the landlord's desire in good faith to recover possession of such housing accommodations for the immediate purpose of withdrawing such housing accommodations from the rental market and such housing accommodations shall not thereafter be offered for rent as such.

8. That the said Wardlow Heights Inc. and Sydney Mark Taper commenced such efforts to evict tenants described in Item 7 of this Request for the purpose of making such housing accommodations described in Item 7 of this request vacant in order that the same might be redecorated and thereafter sold to persons who would purchase such housing accommodations for use as their residences.

9. That Wardlow Annex, Inc. and Sydney Mark Taper, as President thereof, have commenced efforts to evict Max Ravnitzky from 3733 Easy Avenue, Long Beach, by serving him with a notice to quit, basing said notice expressly on the landlord's desire in good faith to recover possession of such housing accommodations for the immediate purpose of withdrawing such housing accommodations from the rental market and such housing accommodations shall not thereafter be offered for rent as such.

10. That said Wardlow Annex Inc. and Sydney Mark Taper commenced such efforts to evict described in Item 9 of this Request for the purpose of [31] making said housing accommodations described in Item 9 of this Request vacant in order that the same might be redecorated and thereafter sold to persons who would purchase such housing accommodations for use as their residences.

11. That all of the issued stock of each Harding Manor, Inc., Wardlow Heights, Inc. and Wardlow Annex, Inc. are owned by the same persons.

12. That Sydney Mark Taper and his wife own all the issued stock of said three corporations.

13. That on or about June 11, 1948 H. C. Frerks executed the following written statement at

the Long Beach Office of the Housing Expediter: "I believe that the Office of Housing Expediter's opinion as to this section relates to where a certain purchaser or sale is involved, and not as to where a landlord intends to get possession so that he can redecorate or add a room to the place for any future sale to parties unknown, who will occupy the place for themselves and not for rental purposes."

14. That in executing said statement H. C. Frerks was acting as a representative of the defendant Harding Manor Inc.

15. That concurrently with the execution of said statement said H. C. Frerks advised one, Ruth Rauh, an employee of the Office of the Housing Expediter at Long Beach, that the housing accommodations at 3733 Easy Avenue and 2538 Gale Avenue, both addresses at Long Beach, are to be repaired and generally renovated and the premises eventually sold to prospective purchasers, that it is the intention to take the cases into Court for the Court's decision on eviction.

16. That during the conversation set forth in part in Item 15 of this Request said Ruth Rauh advised said H. C. Frerks that the reason stated in the notice to quit served on Alvin L. Fite and Wanda W. Fite on or about June 3, 1948 would seem to be in violation of Section 209(a)(5) in that it does involve a sale of the housing accommodations.

17. That H. C. Frerks stated to employees of the Office of the Housing Expediter at Long Beach

that defendant Sydney Mark Taper has several hundred homes in the area in and about the City of Long Beach rented to various tenants and that it is expected that defendant Sydney Mark Taper will use the same ground for eviction as used in the case of tenants Alvin L. Fite and [32] Max Ravnitzky, namely, for the purposes of redecorating and then effecting a sale.

18. That H. C. Frerks told employees of the Office of the Housing Expediter at Long Beach that defendant Sydney Mark Taper has constructed approximately 1,000 homes in the area in and about Long Beach since the commencement of World War II and is one of the big operators in said area.

19. That employees of the Long Beach Office of the Office of the Housing Expediter advised H. C. Frerks that said eviction procedure referred to in Item 10 of this Request is improper and an attempt to circumvent and evade the Rent Regulation and would be resisted by the Office of the Housing Expediter.

20. That one, H. C. Frerks, acting as an attorney at law for defendants, told Mrs. Wanda W. Fite on or about June 3, 1948 that defendants were evicting 85 tenants because Biltmore Homes were not allowed a rent increase.

21. That in the latter part of May, 1948 a representative of defendant Sydney Mark Taper told said Mrs. Fite that the housing accommodations at 2538 Gale Avenue, Long Beach, would be offered for sale.

22. Said Inspector at said time asked Mrs. Fite whether she was going to buy said housing accommodations.

23. Mrs. Fite replied to said question that she was not going to buy said housing accommodations.

Dated: Los Angeles, California, this 16th day of August, 1948.

ABE I. LEVY,

STEPHEN D. MONAHAN,

FRANK L. HIRST,

RICHARD G. SOLOF,

By: /s/ BENJAMIN CHAPMAN,

Rent Litigation,

Attorneys for Plaintiff.

(Affidavit of Service by mail attached.)

[Endorsed]: Filed August 16, 1948. [33]

[Title of District Court and Cause.]

ANSWER TO REQUEST FOR ADMISSIONS

Come now the defendant Sydney Mark Taper and the defendant Harding Manor, Inc., a corporation and, in response to plaintiff's request for admissions, pursuant to Rule 36 of the Federal Rules of Civil Procedure, makes the following admissions: That the said admissions are herein numbered to correspond to the numbers of the requested admissions.

1. That Sydney Mark Taper is the president of Harding Manor, Inc. and owns one-half ($\frac{1}{2}$) of the issued stock of said corporation.

2. That Sydney Mark Taper is the president of Wardlow Annex, Inc. and owns one-half ($\frac{1}{2}$) of the issued stock of said corporation.

3. That Sydney Mark Taper is the president of Wardlow [35] Heights, Inc. and owns one-half ($\frac{1}{2}$) of the issued stock of said corporation.

4. That as president of Harding Manor, Inc., Sydney Mark Taper engaged H. C. Frerks to prepare for Harding Manor, Inc. a Notice to Vacate, addressed to Alvin L. Fite, 2538 Gale Avenue, Long Beach, California, a copy of which said notice is attached hereto, marked Exhibit "A" and admitted to be a true and correct copy of the notice served upon said Alvin L. Fite. That the said Sydney Mark Taper, individually or as president of Harding Manor, Inc., did not manage the proceedings to evict said Alvin L. Fite from the premises at 2538 Gale Avenue, Long Beach, California, and had no knowledge or information concerning any action brought by Tighe E. Woods, Housing Expediter of the Office of the Housing Expediter, in the United States District Court, Southern District of California, nor did said Sydney Mark Taper, individually or as president of Harding Manor, Inc. have any knowledge of the proceedings until after the matter had been heard in the District Court and newspaper publicity given to said proceedings.

5. That Sydney Mark Taper, as president of Harding Manor, Inc., retained H. C. Frerks, an

attorney at law, solely for the purpose of preparing the Notice to Quit mentioned in the preceding admission, a copy of which is attached hereto as Exhibit A. That the said Sydney Mark Taper did not engage the said H. C. Frerks for any other purpose whatsoever, nor was the said H. C. Frerks engaged to handle any evictions or any other matters other than the preparation of said Notice to Quit.

6. That Sydney Mark Taper is a shareholder of the three corporations mentioned in the various complaints, but has no individual interest in the property other than as a shareholder. That the said corporations are the landlords of numerous residential housing accommodations in Los Angeles County and were such landlords as of the date of filing of the various actions by the [36] said Woods against said Taper and said corporations. That said corporations did cause to be served upon various tenants notices to quit.

7. That Wardlow Heights, Inc. did commence efforts to evict Lucy A. Heustis from the property at 3500 Easy Avenue, Long Beach, California, Paul R. Moberly from the property at 3533 Fashion Avenue, Long Beach, California and Henry Monkiewicz from the property at 3557 Fashion Avenue, Long Beach, California, by serving upon said tenants a notice to quit and that said notices were based on the landlord's desire in good faith to recover possession of the housing accommodations for the immediate purpose of withdrawing said housing accommodations from the rental market and that the landlord did not propose after the

eviction of said tenants to offer said property for rent.

8. Objects to answering the request for admission 8 on the grounds that it is irrelevant, immaterial and not within the purview of the action.

9. That Wardlow Annex, Inc. did commence efforts to evict Max Ravnitzky from the property at 3733 Easy Avenue, Long Beach, California, by serving upon said tenant a notice to quit and that said notice was based on the landlord's desire in good faith to recover possession of the housing accommodations for the immediate purpose of withdrawing said housing accommodations from the rental market, and that the landlord did not propose after the eviction of said tenant to offer said property for rent.

10. Objects to answering the request for admission 10 on the grounds that it is irrelevant, immaterial and not within the purview of the action.

11. That all of the stock of Harding Manor, Inc., Wardlow Heights, Inc. and Wardlow Annex, Inc. is owned by the same persons.

12. That Sydney Mark Taper and Amelia Taper own all of [37] the issued stock of said three corporations.

13. That Sydney Mark Taper, individually and as president of the three corporations mentioned in request for admission 11, and that Harding Manor, Inc. have no knowledge, information or belief concerning the alleged statement in request for

admission 13, and basing such answer to said admission because of such lack of information, deny that said statement was made. Set forth that if such statement were made, it was made by said H. C. Frerks without the knowledge of consent of Sydney Mark Taper or Harding Manor, Inc.

14. That Sydney Mark Taper and Harding Manor, Inc. have no knowledge of any statements made by said H. C. Frerks, but that if such statements were made, the said H. C. Frerks had no authority to make such statements, and that said H. C. Frerks was not an agent or representative of the defendant, Harding Manor, Inc. That the said H. C. Frerks was engaged solely for the purpose of preparing the notice to quit hereinabove mentioned, and a copy of which is attached hereto as Exhibit A.

15. That Sydney Mark Taper and Harding Manor, Inc. have no knowledge, information or belief concerning any conversation between the said H. C. Frerks and Ruth Rauh, an employee of the Office of Housing Expediter, and set forth that if such statements were made, they were not made as the agents or representatives of the defendants and were made without the knowledge or consent of the defendants, and that the said H. C. Frerks was engaged solely for the purpose of preparing the notice to quit, a copy of which is attached thereto as Exhibit A.

16. That the defendant Sydney Mark Taper and Harding Manor, Inc. have no knowledge, informa-

tion or belief concerning any statements by H. C. Frerks or Ruth Rauh, and that if any such statements were made, they were not made to or by the said H. C. [38] Frerks as an agent, representative or attorney for the defendants and they were made to or by the said H. C. Frerks without any authority to represent the defendants in that respect.

17. That Sydney Mark Taper and Harding Manor, Inc. had no knowledge or information concerning any statements made by H. C. Frerks to employees of the Office of Housing Expediter at Long Beach, and that if any such statements were made, they were made without the authority of Sydney Mark Taper or Harding Manor, Inc. and were not made as agents for said defendants. That it is not true that Sydney Mark Taper has several hundred homes in the area in and about the City of Long Beach rented to various tenants and that it is not true that Sydney Mark Taper will use the same grounds as are used for the eviction of the tenants Alvin L. Fite and Max Ravnitzky against other tenants, and denies that such evictions were for the purpose of redecorating. Denies that the purpose of evicting any tenants was for the purpose of redecorating and then offering said property for sale. Admits that the purpose of evicting the tenants was to remove the property from the rental market.

18. Objects to answering the request for admission 18 on the grounds that the same is irrelevant, immaterial and not within the issues of this litigation.

19. That Sydney Mark Taper and Harding Manor, Inc. have no knowledge, information or belief concerning any statements made by any of the employees of the Long Beach office of the Office of Housing Expediter and have no knowledge, information or belief concerning any advice that may have been given by the Office of the Housing Expediter and allege that said H. C. Frerks had no authority to act for the defendants nor to make any statements or admissions for the defendants. That the said H. C. Frerks was engaged solely for the purpose of preparing the notice to quit, a copy of which is attached hereto, marked Exhibit A.

20. That Sydney Mark Taper and Harding Manor, Inc. have no knowledge, information or belief concerning any statements made by H. C. Frerks to Wanda W. Fite on or about June 3, 1948 or any other persons, and that if any such statements were made, they were not made with the knowledge or consent of the defendants, and that the said H. C. Frerks was not the agent of said defendants and had no authority to make such statements.

21. That Sydney Mark Taper and Harding Manor, Inc. have no knowledge, information or belief concerning any statements made by H. C. Frerks to Wanda W. Fite in or about the latter part of May, 1948 or any other persons, and that if any such statements were made, they were not made with the knowledge or consent of the defendants, and that the said H. C. Frerks was not the

agent of said defendants and had no authority to make such statements.

22. That these defendants have no knowledge, information or belief concerning any statements made by the inspector or Mr. Fite and that said statements were not binding on the defendants and have no bearing or issue on the matters herein contained.

23. That these defendants have no knowledge, information or belief concerning any statements made by Mrs. Fite concerning the purchasing of said housing accommodation.

Dated at Los Angeles, California this 19th day of August, 1948.

ALBERT H. ALLEN &
HYMAN GOLDMAN,

By,
Attorneys for Defendants.

State of California,
County of Los Angeles—ss.

Sydney Mark Taper, being first duly sworn, on oath deposes and says: that he is the president of Harding Manor, Inc., a corporation, and that he is one of the defendants in the above- [40] entitled action. Affiant further states that he has had served upon him through his counsel, Albert H. Allen and Hyman Goldman, a request for admissions, pursuant to Rule 36, and that he makes said admissions and said denials and that the same are true

of his own knowledge and belief, except as to such matters therein set forth on information and belief and as to those matters he verily believes them to be true.

/s/ SYDNEY MARK TAPER.

Subscribed and sworn to before me this 21st day of August, 1948.

(Seal) /s/ HUGH A. SCHUEBEL,
Notary Public in and for said County and State.

My Commission Expires Nov. 23, 1951.

[Endorsed]: Filed Aug. 24, 1948. [41]

[Title of District Court and Cause.]

NOTICE OF MOTION FOR SUMMARY JUDGMENT

To the Plaintiffs above-named and Abe I. Levy,
Stephen D. Monohan, Frank L. Hirst and Richard G. Solof, his attorneys:

You and Each of You Will Please Take Notice that on Monday, the 13th day of September, 1948, at 10:00 o'clock a.m. of said day, or as soon thereafter as counsel may be heard, in Court Room 3 of the above-entitled Court, at the Court House of the City of Los Angeles; County of Los Angeles, State of California, the above-named defendants will move the Court to strike out the complaint of the above-named plaintiff and to enter judgment in favor of the defendants on the grounds that the plaintiff's complaint sets forth no cause of action.

Said motion will be made and based upon this notice, the affidavit of Sydney Mark Taper served

herewith, the complaint, the answer, and the records and files in this section.

Dated this 30th day of August, 1948.

ALBERT H. ALLEN &

HYMAN GOLDMAN,

By /s/ ALBERT H. ALLEN,

Attorneys for Defendants.

(Affidavit of Service by Mail attached.)

[Endorsed]: Filed Sept. 1, 1948. [42]

[Title of District Court and Cause.]

MOTION FOR SUMMARY JUDGMENT

Now Come the defendants in the above-entitled action and move the Court for an order to strike out the complaint of the plaintiff and for Summary Judgment herein on the grounds that the complaint sets forth no cause of action. This motion is made and based upon the Notice of Motion served concurrently with this Motion and upon the pleadings, papers, records and files in this action, and upon the affidavit of Sydney Mark Taper.

Dated this 30th day of August, 1948.

ALBERT H. ALLEN &

HYMAN GOLDMAN,

By /s/ ALBERT H. ALLEN,

Attorneys for Defendants.

[Endorsed]: Filed Sept. 1, 1948. [44]

[Title of District Court and Cause.]

AFFIDAVIT

State of California,
County of Los Angeles—ss.

Sydney Mark Taper, being first duly sworn, on oath, deposes and says:

That he is one of the defendants in the above-entitled action and that he is the president of Harding Manor, Inc., one of the defendants in the above-entitled action;

Affiant further sets forth that as president of Harding Manor, Inc., a corporation, and that as a director and shareholder of said corporation he caused to be served upon Alvin L. Fite, tenant of defendant, Harding Manor, Inc., a corporation, a notice to vacate the premises, a copy of which said notice is attached hereto, marked Exhibit A, and specifically made a part hereof.

That said Notice was served upon said Alvin L. Fite solely for the purpose of seeking possession of the said premises occupied [45] by the said Alvin L. Fite.

Affiant further sets forth that said Notice was served in accordance with the provisions of Section 209(a)(5) of the Housing and Rent Act of 1948, 50 U.S.C.A. Appendix, dated August, 1948, Section 1899, and that such notice was served and the possession of said premises were sought by Harding Manor, Inc., and this affiant for the purpose of

recovering possession of such housing accommodations; that Harding Manor, Inc., a corporation, and this affiant sought in good faith to recover possession of such housing accommodations for the immediate purpose of withdrawing such housing accommodations from the rental market and that said corporation and said affiant did not thereafter nor do they hereafter propose to offer said housing accommodations for rent as such.

Affiant further sets forth that Harding Manor, Inc., a corporation, and this affiant will not hereafter offer such housing accommodations for rent as such and that said Harding Manor, Inc., a corporation, and this affiant, desire in good faith to remove said housing accommodations from the rental market and that said Harding Manor, Inc. and this affiant will not permit said housing accommodations to be rented as housing accommodations so long as any act of the United States of America, the State of California, the County of Los Angeles, or the City of Long Beach, where said housing accommodations are located, will have in effect any statute, law or ordinance which will limit the use to which the defendants can put their property or so long as any rental regulations will require the control of said housing accommodations.

Affiant further sets forth that subsequent to the service of the notice hereinbefore described and attached hereto as Exhibit A, the said Alvin L. Fite did, voluntarily, vacate said premises and the said Alvin L. Fite is no longer a tenant of the defendant, Harding Manor, Inc., or of this affiant.

Affiant sets forth that at the time of the service of the [46] Order to Show Cause in the above-entitled action, this affiant had just returned to Long Beach having been away from the office for more than two (2) weeks; that said papers were served on a Friday evening; that the hearing was set for Monday morning; that this affiant delivered said papers to one of his assistants, instructing him to look into the matter forthwith; that Harold Frerks, Attorney at Law, who had served the original notice to quit, was away from the City on a honeymoon and this affiant had no knowledge that said matter would not be defended and the first notice this affiant had that a hearing would be had on said matter was after the hearing had already been had and the newspapers published the account of the Court's ruling. Affiant states that if he were apprised of the fact that the matter would be heard on such short notice, he would have given the matter his attention, engaged counsel and would have defended the action. At the time the papers were served upon affiant, there was no opportunity to even engage counsel to defend the matter.

Affiant further states that if he were called upon as a witness to testify in this action, he would testify substantially as is set forth in this affidavit.

/s/ SYDNEY MARK TAPER.

Subscribed and Sworn to before me this 30th day of August, 1948.

(Seal) /s/ J. L. MILLS,

Notary Public in and for said County and State

EXHIBIT A

NOTICE TO QUIT

To Alvin L. Fite, Wanda W. Fite, and all others,
tenants in possession:

Take Notice that you are hereby required to quit and deliver up to the undersigned the possession of the premises now held and occupied by you, being the premises known as, 2538 Gale Avenue, Long Beach, California, at the expiration of the 60 days after this notice is served upon you, and in computing the said 60 days, the 60 day period will start from the following day after the day of service upon you of this notice as required by law.

This notice is given and served upon you in accordance with the law of California, and with the Housing and Rent Act of 1948, wherein it is provided that eviction is authorized in that the landlord seeks in good faith to recover possession of such housing accommodations for the immediate purpose of withdrawing such housing accommodations from the rental market, and such housing accommodations shall not thereafter be offered for rent as such.

This is intended as a 60 day notice to quit, for the purpose of terminating your tenancy afore-said.

Dated June 3, 1948.

/s/ S. M. TAPER,

Lessor.

HAROLD C. FRERKS,

Attorney at Law.

Civil Code Section 3345, if any person or tenant holds over after written demand for possession, such person Must Pay Treble Rent during the time He Continues In Possession after such notice.

[Endorsed]: Filed Sept. 1, 1948. [48]

[Title of District Court and Cause.]

AFFIDAVIT OF MRS. ALVIN L. FITE

I, Mrs. Alvin L. Fite, having been first duly sworn, deposes and says, as follows:

I have read the following extractions sent to me by the Office of the Housing Expediter, taken by them from the answer filed by the defendants in Woods vs. Taper, U.S.D.C. No. 8451-PH.

“That at the time said premises were leased to Alvin L. Fite, the said Alvin L. Fite agreed to maintain said property in good order, to keep the lawns watered and to keep the premises in a clean and healthy condition.

“Defendants allege that the property occupied by said Alvin L. Fite was so maintained by the said Alvin L. Fite so as to be dirty, filthy and in a complete state of disrepair; that the said Alvin L. Fite permitted windows to be broken, hardwood floors to be marred and scratched with the floors being worn, that the [70] linoleum was torn from the floor; that the window shades were broken and torn; that the premises were so misused so as

to have marks on all the plaster walls; that the windows were jarred loose from the frames; that the toilet seat was broken; that the woodwork was scratched; that the lawns were unwatered and dry to the point of needing replacement; that said Alvin L. Fite permitted the back yard to be littered with the debris so as to need a complete replanting; that the screens were broken and torn; that the tile was chipped and broken; that said property was so badly abused as to cause the same to depreciate in value and become unmerchantable and unsalable."

The above statements taken from defendants' answer are untrue. We lived at 2538 Gale Avenue from March, 1944 to July 9, 1948. Harding Manor Inspectors came on our premises every six months for inspection. Each time the sheet was marked satisfactory care of the house. Our last inspection which occurred was one week before we were served our eviction notice on June 3, 1948. Mr. Schubel, the inspector told me (Mrs. Fite) that the house was in good condition, but the lawn needed mowing. When the attorney served me the notice he said, quote: "Mrs. Fite, Harding Manor, Inc., are evicting 85 tenants because O.P.A. would not let them raise the rent 10% and put the house up for sale."

The condition of the house was good when we vacated said premises July 9, 1948. There was no broken windows, the screens were in perfect condition. The tile was not broken, neither was the

toilet seat. There absolutely was no linoleum torn from the floor. All hardwood floors had been waxed and polished all the time we lived there. Some of the shades had been torn at the bottom and we repaired them. There had been no shade replacements in the four years and four months we lived there. The lawn was dry but Harding Manor did not have to replace it.

Harding Manor, Inc., did not do any inside decorating the full time we lived there. We told them we would do the painting if they would furnish the paint, but they would not. We bought paint and painted the kitchen [71] and bathroom.

/s/ MRS. ALVIN L. FITE.

Subscribed and Sworn to before me this 18th day of September, 1948.

(Seal) /s/ N. H. STEARNS,

Notary Public in and for the County of Los Angeles, State of California. My Commission expires Feb. 24, 1951.

(Acknowledgment of Service.)

[Endorsed]: Filed Sept. 20, 1948. [72]

[Title of District Court and Cause.]

STIPULATION

It Is Hereby Stipulated by and between counsel for the plaintiff and counsel for the defendants

that the following cases shall be consolidated in to case number 8451-PH and treated as one case:

1. Woods v. Sydney Mark Taper, Harding Manor, Inc, No. 8451-PH.

2. Woods v. Sydney Mark Taper, Wardlow Heights, Inc., No. 8452-PH.

3. Woods v. Sydney Mark Taper, Wardlow Annex, Inc., No. 8453-PH.

Dated Los Angeles, California, this 27th day of September, 1948.

ABE I. LEVY, STEPHEN D. MONAHAN,
FRANK L. HIRST, RICHARD G. SOLOF,
BENJAMIN CHAPMAN,

By /s/ BENJAMIN CHAPMAN,
Attorneys for Plaintiff.

By /s/ ALBERT H. ALLEN,
Attorney for Defendants in all three cases.

Good cause appearing therefor, it is so ordered.
This 27th day of September, 1948.

/s/ CHARLES C. CAVANACH,
Judge.

[Endorsed]: Filed Sept. 27, 1948. [77]

In the District Court of the United States
Southern District of California, Central Division

No. 8452-PH

TIGHE E. WOODS, Housing Expediter, Office
of the Housing Expediter,

Plaintiff,

vs.

SYDNEY MARK TAPER, WARDLOW
HEIGHTS, INC., a corporation, DOE I, DOE
II, and DOE III,

Defendants.

COMPLAINT FOR PRELIMINARY AND
FINAL INJUNCTION AND FOR OTHER
RELIEF

I.

Plaintiff, as Housing Expediter, Office of the
Housing Expediter, brings this action for an injunc-
tion and other appropriate relief pursuant to Sec-
tion 206 of the Housing and Rent Act of 1947
as amended, for the purpose of enjoining the
defendants from evicting from the hereinafter
described housing accommodations the hereinafter
described persons.

II.

Jurisdiction is conferred on this Court by Sec-
tion 206 of the Housing and Rent Act of 1947 as
amended.

III.

The defendant Wardlow Heights, Inc. is a cor-
poration duly organized and existing under the
laws of the State of California. [78]

IV.

At all times hereinafter mentioned defendants were the landlords of the housing accommodations located at 3500 Easy Avenue, Long Beach, California; at 3533 Fashion Avenue, Long Beach, California, and at 3557 Fashion Avenue, Long Beach, California.

V.

At all times hereinafter mentioned there was in effect in the Los Angeles Defense Rental Area a Controlled Housing Rent Regulation (12 F. R. 4331).

VI.

At all times hereinafter mentioned the housing accommodations hereinafter described were subject to said aforementioned Act and Regulation and particularly Section 209 of said Act.

VII.

That the defendants, Doe I, Doe II and Doe III, are the fictitious names of the defendants, whose true names are to this plaintiff unknown, and plaintiff asks that when these true names are discovered this complaint may be amended by inserting such true names in the place and stead of such fictitious names. Wherever the word "defendant" is used in this complaint, it shall include all of the defendants individually and collectively herein sued.

VIII.

That the defendants are residents within the County of Los Angeles, State of California, have their principal place of business within said County, and are within the jurisdiction of this Court.

IX.

That on or about June 3, 1948 the defendants, as landlords, commenced proceedings to evict from the housing accommodations at 3500 Easy Avenue, Long Beach, California, one, Lucy A. Heustis, a tenant thereof and other persons lawfully in occupancy thereof by serving upon the said Lucy Heustis a Notice to Quit, basing said notice expressly on the landlord's desire in good faith to recover possession of such housing accommodations for the immediate purpose of withdrawing such housing accommodations from the rental market and such [79] housing accommodations shall not thereafter be offered for rent as such. That the defendants commenced such proceedings and served such notice for the expressly avowed purpose of making said housing accommodations vacant in order that the same might be sold to persons who would purchase such housing accommodations for use as their residences.

X.

That on or about June 3, 1948 the defendants, as landlords, commenced proceedings to evict from the housing accommodations at 3533 Fashion Avenue, Long Beach, California, one, Paul R. Moberly, a tenant thereof and other persons lawfully in occupancy thereof by serving upon the said Paul R. Moberly a Notice to Quit, basing said notice expressly on the landlord's desire in good faith to recover possession of such housing accommodations for the immediate purpose of withdrawing such housing accommodations from the rental mar-

ket and such housing accommodations shall not thereafter be offered for rent as such. That the defendants commenced such proceedings and served such notice for the expressly avowed purpose of making said housing accommodations vacant in order that the same might be sold to persons who would purchase such housing accommodations for use as their residences.

XI.

That on or about June 3, 1948 the defendants, as landlords, commenced proceedings to evict from the housing accommodations at 3557 Fashion Avenue, Long Beach, California, one, Henry Monkiewicz, a tenant thereof and other persons lawfully in occupancy thereof by serving upon the said Henry Monkiewicz a Notice to Quit, basing said notice expressly on the landlord's desire in good faith to recover possession of such housing accommodations for the immediate purpose of withdrawing such housing accommodations from the rental market and such housing accommodations shall not thereafter be offered for rent as such. That the defendants commenced such proceedings and served such notice for the expressly avowed purpose of making said housing accommodations vacant in order that the same might be sold to persons who would purchase such housing accommodations for use as their residences. [80]

XII.

That said acts hereinabove alleged are in violation of the provisions of the Housing and Rent Act of 1947 as amended, that unless defendants are

restrained from further acts in furtherance of their design set forth above, they will evict said tenants and said defendant Sydney Mark Taper and Wardlow Annex, Inc., and Harding Manor, Inc., of which he is president and a major stockholder, will proceed to evict numerous tenants in numerous housing accommodations under similar circumstances and for similar purposes as hereinabove set forth.

Wherefore, the plaintiff demands:

A preliminary and final injunction enjoining the defendants, their agents, servants, employees, and all persons in active concert or participation with them from:

1. Evicting said Lucy A. Heustis and other persons now in occupancy at the premises at 3500 Easy Avenue, Long Beach, California, from said premises.

2. Evicting said Paul R. Moberly and other persons now in occupancy at the premises at 3533 Fashion Avenue, Long Beach, California, from said premises.

3. Evicting said Henry Monkiewicz and other persons now in occupancy at the premises at 3557 Fashion Avenue, Long Beach, California, from said premises.

4. Engaging in any action or course of action, the purpose of which is to evict illegally tenants from the above-described premises, or any other housing accommodations owned, controlled, or managed by the defendants, or from evicting said tenants in any form or manner contrary to the Hous-

ing and Rent Act of 1947 and Regulations issued thereunder, as heretofore or hereafter amended or superseded.

5. Directly or indirectly demanding or receiving amounts in excess of the maximum legal rent, or from discontinuing, withholding, suspending, or shutting off the normal supply of heat, light, gas, hot and cold water, janitorial services, or other essential services and utilities, or threatening to do any of the foregoing. [81]

6. Violating the Housing and Rent Act of 1947, as amended, and Regulations issued thereunder, as heretofore or hereafter amended or superseded.

7. Violating the Housing and Rent Act of 1947, as amended, and Regulations issued thereunder, as heretofore or hereafter amended or superseded, by accepting, demanding, or receiving, in any form or manner, rents higher than the established maximum rent prescribed therein.

Dated Los Angeles, California, this 19th day of July, 1948.

ABE I. LEVY,
STEPHEN D. MONAHAN,
FRANK L. HIRST,
RICHARD G. SOLOF,

By /s/ CASSEL JACOBS,

Attorneys for Plaintiff. [82]

State of California, County of Los Angeles,
United States of America—ss.

Ruth Rauh, being first duly sworn, deposes and says:

That plaintiff is absent from the County of Los Angeles; that the undersigned is an employee of

the United States Government, and during the time specified in the complaint, as hereinabove set forth, she was employed as a Compliance Negotiator [R.R.] for the Office of the Housing Expediter, an agency of the United States Government; that in the course of her duty as a Compliance Negotiator [R.R.] for the Office of the Housing Expediter she made an investigation of and became familiar with the facts involved in the above-mentioned action; that she has read the foregoing complaint and knows the contents thereof; and that the same is true of her own knowledge, except as to the matters which are therein stated upon information and belief, and as to those matters that she believes it to be true.

/s/ RUTH RAUH.

Subscribed and Sworn to before me this 19th day of July, 1948.

(Seal) /s/ H. C. ZECH,

Notary Public in and for said County and State.

My Commission expires Oct. 26, 1951.

[Endorsed]: Filed July 20, 1948. [83]

[Title of District Court and Cause.]

AFFIDAVITS IN SUPPORT OF PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION [84]

AFFIDAVIT OF CHARLES H. BLAYLOCK

State of California,

County of Los Angeles—ss.

I, Charles H. Blaylock, having been first duly sworn, depose and say, as follows:

That I am Associate Area Rent Director for the Los Angeles Defense Rental Area, Office of the Housing Expediter, in charge of the operations of the Los Angeles Defense Rental Area Office at Long Beach, California. That I am familiar with the records of the Los Angeles Defense Rental Area Office relating to the housing accommodations located at the following addresses:

3500 Easy Avenue, Long Beach, California, and
3533 Fashion Avenue, Long Beach, California.

That said records of the Area Rent Office relating to said housing accommodations show that said housing accommodations are controlled housing [85] accommodations and that they are subject to the provisions of the Rent Regulation for Controlled Housing. Mr. Sydney Mark Taper and corporations with which he is associated are the landlords of numerous housing accommodations in the Long Beach Area.

Dated July 15th, 1948.

/s/ CHARLES H. BLAYLOCK.

Subscribed and sworn to before me this 15th day of July, 1948.

(Seal) /s/ CORA A. KIRCHNER,

Notary Public in and for the above County and State.

My Commission expires 11-11-51.

[86]

AFFIDAVIT OF RUTH RAUH

State of California,

County of Los Angeles—ss.

I, Ruth Rauh, having been first duly sworn, depose and say, as follows:

That I am an employee of the Los Angeles Defense Rental Area Office, Office of the Housing Expediter, and my duties relate to housing accommodations in the Long Beach, California, Area. That as such employee I interviewed Mr. Harold C. Frerks, Attorney for Sydney Mark Taper, President of Wardlow Heights, Inc., Harding Manor, Inc., and Wardlow Annex, Inc. That Mr. Frerks, as attorney for Mr. Taper, signed the following statement which is on file in the records of the Los Angeles Defense Rental Area Office at Long Beach, California:

“I believe that the O.H.E. opinion as to this section relate to where a certain purchaser or sale is involved, and not as to where a landlord intends to get possession so that he can redecorate or add a room to the place for [87] any future sale to parties unknown, who will occupy the place for themselves and not for rental purposes. H. C. Frerks.”

That the above statement of Mr. Frerks was made in connection with a notice to quit, served by Harding Manor, Inc. on Alvin L. Fite, et al, respecting the premises at 2538 Gale Avenue, Long Beach, California, and concerning an eviction notice

served by Wardlow Annex, Inc., by S. M. Taper, on Max Ravnitzky, et al, relating to the premises at 3733 Easy Avenue, Long Beach, California.

That the statement had reference to housing and to Memorandum No. 51 issued by B. W. Diggle, Deputy Housing Expediter, Rent Operations, and Robert A. Sauer, Assistant General Counsel, Regulations and Appeals Branch, Office of the Housing Expediter, Washington, D. C., which states, in part, as follows:

“To Secure Vacant Possession for Purposes of Sale.

“Section 209(a)(5) permits eviction where ‘the landlord seeks in good faith to recover possession of such housing accommodations for the immediate purpose of withdrawing such housing accommodations from the rental market . . .’ Since this is only one of several grounds for eviction under the Act, it is clear that it was not intended that this section should broaden or defeat the purpose of limitations placed in the other grounds. It follows, therefore, that since Section 209(a)(3) provides for eviction where ‘the landlord has in good faith contracted in writing to sell the housing accommodations to a purchaser for the immediate and personal use and occupancy as housing accommodations by such purchaser;’ Section 209(a)(5) may not be used in cases where sales are involved. That is to say, since a tenant may be evicted for occupancy by a purchaser under Section 209(a)(3), a landlord may not evict under Section 209(a)(5) for the purpose of obtaining vacant possession in order to sell. [88]

“Section 206(b) of the Act authorizes the Housing Expediter to seek injunction against violations of the eviction provisions and consequently, any violations of the eviction restriction referred to above may be referred to Litigation for appropriate action.”

Mr. Frerks further stated to me, at the time he signed the above statement on June 11, 1948, at the Long Beach Office of the Housing Expediter, 110 East Anaheim Street, Long Beach, California, that the above premises are to be repaired and generally remodeled and eventually sold to prospective purchasers, that it is the intention to take the cases into court for the court's decision on eviction. I advised Mr. Frerks that the reason stated in the notice to quit would seem to be in violation of Section 209(a)(5) of the Housing and Rent Act of 1947 as amended, in that it does involve a sale of the housing accommodations.

It is my impression, as a result of my conversation with Mr. Frerks that his clients named above are about to commence eviction proceedings in numerous instances.

Dated July 15th, 1948.

/s/ RUTH RAUH.

Subscribed and sworn to before me this 15th day of July, 1948.

(Seal) /s/ CORA A. KIRCHNER,
Notary Public in and for the above County and State.

My Commission expires 11-11-51.

[89]

AFFIDAVIT OF LUCY A. HEUSTIS

State of California,
County of Los Angeles—ss.

I, Lucy A. Heustis, having been first duly sworn,
depose and say, as follows:

That on or about June 3, 1948, Wardlow Heights,
Inc., by S. M. Taper, President, as landlord of the
premises wherein I reside at 3500 Easy Avenue,
Long Beach, California, served me with a written
notice to quit said premises at the expiration of
sixty days after service of the notice.

Dated July 6, 1948.

/s/ LUCY A. HEUSTIS.

Subscribed and sworn to before me this 6th day
of July, 1948.

(Seal) /s/ (Illegible.)

Notary Public in and for the above County and
State.

My Commission expires October 31, 1951. [90]

AFFIDAVIT OF PAUL R. MOBERLY

State of California,
County of Los Angeles—ss.

I, Paul R. Moberly, having been first duly sworn,
depose and say, as follows:

That on or about June 3, 1948, Wardlow Heights,
Inc., by S. M. Taper, President, as landlord of the
premises wherein I reside at 3533 Fashion Avenue,

Long Beach, California, served me with a written notice to quit said premises at the expiration of sixty days after service of the notice.

Dated July 6, 1948.

/s/ PAUL R. MOBERLY.

Subscribed and sworn to before me this 6th day of July, 1948.

(Seal) /s/ (Illegible.)

Notary Public in and for the above County and State.

My Commission expires Jan. 8, 1950. [91]

AFFIDAVIT OF HENRY MONKIEWICZ

State of California,
County of Los Angeles—ss.

I, Henry Monkiewicz, having been first duly sworn, depose and say, as follows:

That on or about June 3, 1948, Harding Manor, Inc., by S. M. Taper, President, as landlord of the premises wherein I reside at 3557 Fashion Avenue, Long Beach, California, served me with a written notice to quit said premises at the expiration of sixty days of the notice.

Dated July 8, 1948.

/s/ HENRY MONKIEWICZ.

Subscribed and sworn to before me this 8th day of July, 1948.

(Seal) /s/ CORA A. KIRCHNER,

Notary Public in and for above County and State.

My Commission expires 11-11-51.

[Endorsed]: Filed July 20, 1948. [92]

[Title of District Court and Cause.]

ORDER TO SHOW CAUSE

Upon reading the verified complaint, memorandum of points and authorities and affidavits filed by plaintiff, and good cause appearing therefor:

It Is Hereby Ordered that defendants Sydney Mark Taper and Wardlow Heights, Inc., appear before this Court in Courtroom Number 3 on the second floor of the United States Post Office and Courthouse Building, 312 North Spring Street, Los Angeles, California, on the 26th day of July, 1948, at 10:00 o'clock a.m. in the forenoon, or as soon thereafter as the matter can be heard, and show cause, if any there be, why this Court, pending trial of this action, should not grant a preliminary injunction restraining the defendants, their agents, servants and employees and all persons in active concert or participation with them according to the prayer of the complaint.

It Is Further Ordered that a copy of the affidavits and points and [93] authorities filed by the plaintiff and a copy of this order be served with the summons and complaint herein upon defendants Sydney Mark Taper and Wardlow Heights, Inc., not later than the 22nd day of July, 1948.

Dated Los Angeles, California, this 20th day of July, 1948.

/s/ PAUL J. McCORMICK,
Judge.

[Endorsed]: Filed July 20, 1948. [94]

[Title of District Court and Cause.]

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

The plaintiff having filed his verified complaint and his affidavits and memorandum of points and authorities in support of his motion for preliminary injunction and the defendants, Sydney Mark Taper, and Wardlow Heights, Inc., through its President, Sydney Mark Taper, each having been personally served with a copy of the verified complaint, a copy of the order to show cause, a copy of the memorandum of points and authorities and affidavits in support of plaintiff's motion for preliminary injunction on the 22nd day of July, 1948, and the cause having come on regularly for hearing on the 26th day of July, 1948, before the Honorable Peirson M. Hall, Judge Presiding, and the plaintiff being represented by Frank L. Hirst, Esq., and said defendants not appearing in person or by counsel, and said cause having been continued by order of the [95] Court for hearing to the 27th day of July, 1948, at 10:00 o'clock a.m., at which time the cause was submitted on plaintiff's verified complaint, affidavits and memorandum of points and authorities in support of his motion for preliminary injunction, no evidence having been offered in opposition to plaintiff's motion by said defendants, and no affidavits having been filed by them in opposition to said motion, and the Court having considered all of the allegations in said verified complaint and said affidavits, the said alle-

gations being unopposed and the Court being fully apprised of the premises, makes the following

FINDINGS OF FACT

1. That the plaintiff as Housing Expediter, Office of the Housing Expediter, brings this action for an injunction and makes his motion for a preliminary injunction pursuant to Section 206 of the Housing and Rent Act of 1947, as amended, for the purpose of enjoining the defendants from evicting from the hereinafter described housing accommodations the hereinafter described persons.

2. That jurisdiction of this action is conferred on this Court by Section 206 of the Housing and Rent Act of 1947, as amended.

3. That the defendant Wardlow Heights, Inc., is a corpoartion, duly authorized and existing under the laws of the State of California.

4. That at all times hereinafter mentioned the defendants were the landlords of the housing accommodations located at 3500 Easy Avenue, 3533 and 3557 Fashion Avenue, Long Beach, California.

5. That at all times pertinent hereto there was an effect in the Los Angeles Defense Rental Area a Controlled Housing Rent Regulation (12 F. R. 1331).

6. That at all times pertinent hereto the housing accommodations hereinabove described were subject to said aforementioned [96] Act and Regulation, particularly Section 209 of said Act.

7. That the defendants Sydney Mark Taper and Wardlow Heights, Inc., are residents within the

County of Los Angeles, State of California, having their principal place of business within said county and are within the jurisdiction of this Court.

8. That on or about June 3, 1948, said defendants, as landlords, commenced proceedings to evict from the housing accommodations at 3500 Easy Avenue, Long Beach, California, one, Lucy A. Heustis, a tenant thereof, and other persons lawfully in occupancy thereof by serving upon the said Lucy A. Heustis a Notice to Quit, basing said notice expressly on the landlord's desire in good faith to recover possession of said housing accommodations for the immediate purpose of withdrawing said housing accommodations from the rental market and such housing accommodations are not thereafter to be offered for rent as such.

9. That on or about June 3, 1948, said defendants, as landlords commenced proceedings to evict from the housing accommodations at 3533 Fashion Avenue, Long Beach, California, one, Paul R. Moberly, a tenant thereof, and other persons lawfully in occupancy thereof by serving upon the said Paul R. Moberly a Notice to Quit, basing said notice expressly on the landlord's desire in good faith to recover possession of said housing accommodations for the immediate purpose of withdrawing said housing accommodations from the rental market and such housing accommodations are not thereafter to be offered for rent as such.

10. That on or about June 3, 1948, said defendants, as landlords commenced proceedings to evict

from the housing accommodations at 3557 Fashion Avenue, Long Beach, California, one, Henry Monkiewicz, a tenant thereof, and other persons lawfully in occupancy thereof by serving upon the said Henry Monkiewicz a Notice to Quit, basing said notice expressly on the landlord's desire in good faith to recover possession of said housing [97] accommodations for the immediate purpose of withdrawing said housing accommodations from the rental market and such housing accommodations are not thereafter to be offered for rent as such.

11. That said defendants commenced such proceedings and served such notices for the expressly avowed purpose of making said housing accommodations vacant in order that same might be redecorated and thereafter sold to persons who would purchase such housing accommodations for use as their residences.

12. That said defendants are engaged in evicting tenants from other housing accommodations subject to said Act and said Regulation of which they are the landlords individually and under the guise of corporate structure by serving notices to quit similar to the notices to quit hereinabove described and with the same expressly avowed purpose as hereinabove set forth.

13. That unless defendants are restrained from further acts in furtherance of their design set forth above they will evict said tenants and said Sydney Mark Taper and Wardlow Heights, Inc., of which said Sydney Mark Taper is President and a major stockholder, will proceed to evict numerous

other tenants in numerous other controlled housing accommodations owned, controlled or managed by said defendants, under similar circumstances and for the same purpose as hereinabove set forth.

From the above findings of fact, the Court makes the following

CONCLUSIONS OF LAW

1. That the purpose for which said defendants Sydney Mark Taper and Wardlow Heights, Inc., have commenced said eviction proceedings and served said notices to quit on said Lucy A. Heustis, Paul R. Moberly and Henry Monkiewicz, and said other tenants hereinabove referred to does not constitute a proper ground for eviction within the meaning of Section 209(a)(5) of said Housing and [98] Rent Act of 1947, as amended, or any other subdivision of said Section 209.

2. That the plaintiff herein is entitled to a preliminary injunction, pending the determination of the Court on plaintiff's complaint for a permanent injunction, enjoining the defendants Sydney Mark Taper and Wardlow Heights, Inc., their agents, servants, employees, attorneys, officers and directors, and all other persons in active concert or participation with them from:

(a) Evicting Lucy A. Heustis and all other persons in occupancy of the housing accommodations located at 3500 Easy Avenue, Long Beach, California, except in accordance with the provisions of Section 209 of the Housing and Rent Act of

1947, as amended, and on the grounds and for the purposes stated therein.

(b) Evicting Paul R. Moberly and all other persons in occupancy of the housing accommodations located at 3533 Fashion Avenue, Long Beach, California, except in accordance with the provisions of Section 209 of the Housing and Rent Act of 1947, as amended, and on the grounds and for the purposes stated therein.

(c) Evicting Henry Monkiewicz and all other persons in occupancy of the housing accommodations located at 3557 Fashion Avenue, Long Beach, California, except in accordance with the provisions of Section 209 of the Housing and Rent Act of 1947, as amended, and on the grounds and for the purposes stated therein.

(d) Engaging in any action or course of action, the purpose of which is to evict illegally tenants from the above-described premises, or any other housing accommodations owned, controlled, or managed by the defendants, or from evicting said tenants in any form or manner contrary to the Housing and Rent Act of 1947, and [99] Regulations issued thereunder, as heretofore or hereafter amended or superseded.

(e) Directly or indirectly demanding or receiving amounts in excess of the maximum legal rent, or from discontinuing, withholding, suspending, or shutting off the normal supply of heat, light, gas, hot and cold water, janitorial services, or other

essential services and utilities, or threatening to do any of the foregoing.

Dated Los Angeles, California, this 27th day of July, 1948.

/s/ PEIRSON M. HALL,
Judge, U. S. District Court.

Presented by:

ABE I. LEVY,
STEPHEN D. MONAHAN,
FRANK L. HIRST,
RICHARD G. SOLOF,

By /s/ FRANK L. HIRST,
Attorneys for Plaintiff.

[Endorsed]: Filed July 27, 1948. [100]

[Title of District Court and Cause.]

DECREE FOR PRELIMINARY INJUNCTION

This cause came on regularly for hearing on the motion of the plaintiff for a preliminary injunction on July 26, 1948, before the Honorable Peirson M. Hall, Judge Presiding, and was continued for hearing to July 27, 1948, at 10:00 o'clock a.m. Plaintiff was represented by Frank L. Hirst, Esq., and the defendants Sydney Mark Taper and Wardlow Heights, Inc., were not present and not represented by counsel. The Court having considered plaintiff's verified complaint and affidavits and memorandum of points and authorities in support

of plaintiff's motion for a preliminary injunction, said defendants not having submitted either affidavits or other evidence, and the Court having this day made its written findings of fact and conclusions of law, and being fully advised in the premises, now therefor, [101]

It Is Hereby Ordered, Adjudged and Decreed that the defendants Sydney Mark Taper and Wardlow Heights, Inc., their agents, servants, employees, attorneys, officers and directors and all other persons in active concert or participation with them are hereby enjoined and restrained until further order of the Court herein from:

1. Evicting Lucy A. Heustis and all other persons in occupancy of the housing accommodations located at 3500 Easy Avenue, Long Beach, California, except in accordance with the provisions of Section 209 of the Housing and Rent Act of 1947, as amended, and on the grounds and for the purposes stated therein.

2. Evicting Paul R. Moberly and all other persons in occupancy of the housing accommodations located at 3533 Fashion Avenue, Long Beach, California, except in accordance with the provisions of Section 209 of the Housing and Rent Act of 1947, as amended, and on the grounds and for the purposes stated therein.

3. Evicting Henry Monkiewicz and all other persons in occupancy of the housing accommodations located at 3557 Fashion Avenue, Long Beach, California, except in accordance with the provisions of Section 209 of the Housing and Rent Act of 1947, as amended, and on the grounds and for the purposes stated therein.

4. Engaging in any action or course of action the purpose of which is to evict illegally tenants from the above-described premises, or any other housing accommodations owned, controlled, or managed by the defendants, or from evicting said tenants in any form or manner contrary to the Housing and Rent Act of 1947, and Regulations issued thereunder, as heretofore or hereafter amended or superseded. [102]

5. Directly or indirectly demanding or receiving amounts in excess of the maximum legal rent, or from discontinuing, withholding, suspending, or shutting off the normal supply of heat, light, gas, hot and cold water, janitorial services, or other essential services and utilities, or threatening to do any of the foregoing.

Dated Los Angeles, California, this 27th day of July, 1948, 4:55 p.m.

/s/ PEIRSON M. HALL,
Judge, U. S. District Court.

Presented by:

ABE I. LEVY,
STEPHEN D. MONAHAN,
FRANK L. HIRST,
RICHARD G. SOLOF,

By /s/ FRANK L. HIRST,
Attorneys for Plaintiff.

Judgment entered July 28, 1948. Docketed July 28, 1948. Book, 52, page 272.

[Endorsed]: Filed July 27, 1948. [103]

[Title of District Court and Cause.]

ANSWER

Come Now the defendants, Sydney Mark Taper, Harding Manor, Inc., a corporation, Wardlow Annex, Inc., a corporation, and Wardlow Heights, Inc., a corporation, and answering the complaint of the plaintiff on file herein admit, deny and allege as follows:

I.

Answering Paragraph V, these defendants admit that at all times mentioned in the complaint there was in effect the Housing and Rent Act of 1947 as amended by the Housing and Rent Act of 1948, and admit that the property of the defendants is in the Los Angeles Defense Rental Area which is a controlled housing rent area, and that there was in effect in the Los Angeles Defense Rental Area a controlled housing rent regulation (12 F. R. 4331). [104]

II.

Answering Paragraph IX, these defendants admit that on or about, to-wit, the third day of June, 1948, the defendant, Wardlow Heights, Inc., a corporation, as landlord, commenced proceedings to evict from the housing accommodations at 3500 Easy Avenue, Long Beach, California, Lucy A. Heustis, a tenant thereof, and that there was served upon said Lucy A. Heustis a notice to quit, which said notice set forth that the landlord desired in good faith to recover possession of the housing accommodations for the immediate purpose of with-

drawing such housing accommodations from the rental market and that such housing accommodations would not thereafter be offered for rent as such. Admit that the defendants commenced the proceedings and served the notice and admit that the purpose of such notice was for the purpose of evicting the said Lucy A. Heustis, but deny that there was any bad faith or other ulterior motives on the part of the said landlord and defendant, Wardlow Heights, Inc.; deny each and every other allegation in said paragraph contained.

III.

Answering Paragraph X these defendants admit that on or about, to-wit, the third day of June, 1948, the defendants, Wardlow Heights, Inc., a corporation, as landlord, commenced proceedings to evict from the housing accommodations at 3533 Fashion Avenue, Long Beach, California, Paul R. Moberly, a tenant thereof, and that there was served upon said Paul R. Moberly a notice to quit, which said notice set forth that the landlord desired in good faith to recover possession of the housing accommodations for the immediate purpose of withdrawing such housing accommodations from the rental market and that [105] such housing accommodations would not thereafter be offered for rent as such. Admit that the defendants commenced the proceedings and served the notice and admit that the purpose of such notice was for the purpose of evicting the said Paul R. Moberly, but deny that there was any bad faith or other ulterior motives on the part of the said landlord and defend-

ants Wardlow Heights, Inc.; deny each and every other allegation in said paragraph contained.

IV.

Answering Paragraph XI these defendants admit that on or about, to-wit, the third day of June, 1948, the defendant Wardlow Heights, Inc., a corporation, as landlord, commenced proceedings to evict from the housing accommodations at 3557 Fashion Avenue, Long Beach, California, Henry Monkiewicz, a tenant thereof, and that there was served upon said Henry Monkiewicz a notice to quit, which said notice set forth that the landlord desired in good faith to recover possession of the housing accommodations for the immediate purpose of withdrawing such housing accommodations from the rental market and that such housing accommodations would not thereafter be offered for rent as such. Admit that the defendants commenced the proceedings and served the notice and admit that the purpose of such notice was for the purpose of evicting the said Henry Monkiewicz, but deny that there was any bad faith or other ulterior motives on the part of the said landlord and defendant, Wardlow Heights, Inc.; deny each and every other allegation in said paragraph contained.

V.

Answering Paragraph XII, these defendants deny that said acts hereinbefore referred to and as set forth in the plaintiff's complaint are in violation of the [106] provisions of the Housing and Rent Act of 1947, as amended; on the contrary, allege that said acts are within the provisions of

the regulations; deny each and every other allegation in said paragraph contained.

For a first separate and affirmative defense, these defendants set forth:

I.

That the defendants are the owners of the real property described in the plaintiff's complaint and that said properties have been leased to the persons mentioned in said complaint since the early part of 1945; that the property at 3557 Fashion Avenue was leased to Henry Monkiewicz on or about the 15th day of January, 1945, at a rental of Fifty Dollars (\$50.00) per month, which at that time was in accordance with the O.P.A. ceiling price fixed for said property.

II.

That at the time said premises were leased to Henry Monkiewicz, the said Henry Monkiewicz agreed to maintain said property in good order, to keep the lawns watered and to keep the premises in a clean and healthy condition.

III.

Defendants allege that the property occupied by said Henry Monkiewicz was so maintained by the said Henry Monkiewicz so as to be dirty, filthy and in a complete state of disrepair; that the said Henry Monkiewicz permitted windows to be broken, hardwood floors to be marred and scratched with the floors being worn; that the linoleum was torn from the floor; that the window shades were broken and torn; that the premises were so [107] misused so as to have marks on all the plaster walls; that

the windows were jarred loose from the frames; that the toilet seat was broken; that the woodwork was scratched; that the lawns were unwatered and dry to the point of needing replacement; that said Henry Monkiewicz permitted the back yard to be littered with debris so as to need a complete replanting; that the screens were broken and torn; that the tile was chipped and broken; that said property was so badly abused as to cause the same to depreciate in value and become unmerchantable and unsalable.

IV.

That in addition thereto the said house was leased to said Monkiewicz in January of 1945 at a rental of Fifty Dollars (\$50.00) per month and that since that date the cost of maintaining said property has so increased as to cause the defendants to sustain a loss as a result of its rental of said property at said figure. That the said house has a value of approximately Nine Thousand Dollars (\$9,000.00) and that the following costs and expenditures are necessary in connection with the operation of said property, to-wit:

Taxes: \$110.00 per year.

Interest to the Bank of America under F.H.A. Insured Loan, including $1\frac{1}{2}\%$ F.H.A. insurance: \$215.00 per year.

Fire insurance: \$12.00 per year.

Depreciation at 4% per year: \$294.00 per year.

Repairs consisting of redecorating or repairing the outside (on a basis of once every three years)

at [108] an average cost of \$86.00 or a cost of \$28.66 per year.

Replacement of screens at a cost of \$11.00 per year.

Repairs to plumbing, windows and miscellaneous repairs on an average of \$13.00 per year.

Total cost of maintenance of said property: \$708.00 per year; or a net cost of approximately \$59.00 per month, exclusive of any return to the defendants on their investment and exclusive of any major repairs such as the replacement of the roof, replacement of lawns, replacement of worn-out plumbing or tile, replacement of water heaters, replacement of heating system or other usual and customary replacements which have to be made over a period of years.

V.

Defendants further set forth that the payments which the said Henry Monkiewicz was making to the defendants were in the sum of Fifty Dollars (\$50.00) per month or Six Hundred Dollars (\$600.00) per year and that the defendants were sustaining a loss of Nine Dollars (\$9.00) per month or One Hundred Eight Dollars (\$108.00) per year without taking into account any consideration for a return on the capital investment of the defendants, without allowance for the collection of rents, without allowance for the office overhead and supervisory duties of the defendants and their employees, without allowance for accounting fees and the various and sundry other charges usually entailed in the handling and rental of property.

VI.

Defendants further set forth that upon it appearing that the defendants were sustaining a loss as set forth in the preceding paragraphs, they made application with the Office of Housing Expediter Ben C. Koepke, and that after expending several hundred dollars for obtaining the necessary information including the time of the agents and representatives of the defendants in gathering information [109] requested by the Housing Expediter, the Housing Expediter allowed a rent increase of One and twenty-five/one-hundredths Dollars (\$1.25) per month or a total of Fifteen Dollars (\$15.00) per year so that notwithstanding the increase in rent of One and twenty-five/one-hundredths Dollars per month the defendants were still sustaining a loss of Ninety-three Dollars (\$93.00) per year and this without allowing anything to the defendants for office overhead, collection of rents, or any return on the investment of the defendants, nor for the replacement costs of damages to the property if the same was maintained for any period of time; that notwithstanding such increase, defendants were sustaining a loss of Two Hundred Twenty-five Dollars (\$225.00) per year on said house.

VII.

That thereupon, the defendants elected to remove said property from the housing market and to have property placed in such condition at an expenditure of several hundred dollars so as to be in a position to sell said property, and that the only purpose of reaching the conclusion to sell said

property was by reason of the fact that the defendants could not obtain the necessary relief which would prevent them from taking the losses which they were sustaining from the rental of said property.

VIII.

That is said properties were not disposed of at the present time, not only would the defendants be taking a loss on their property during the time it was occupied, but that the market value of said property which is now fixed at the sum of approximately Nine Thousand Dollars (\$9,000.00) may in the future drop and that in such event the defendants would not be able to dispose of the property at its present value; that likewise, at a later date the property may depreciate so that event at a rental of Fifty Dollars (\$50.00) per month, they would then sustain great losses, whereas if the defendants were now permitted to dispose of said [110] property they could do so without a loss and recover their investment.

IX.

That thereupon, Henry Monkiewicz vacated the said property and the said Henry Monkiewicz is not now a tenant of the defendants.

For a second separate and affirmative defense, these defendants allege:

I.

Defendants adopt and reallege all of their allegations of the First Affirmative Defense and make the same a part hereof, as though the same were fully set forth at length herein.

II.

That under the Housing Act as hereinbefore referred to, the defendants had the right to remove said property from the rental market and that in that connection they set forth that Title II of the Housing and Rent Act of 1947 as amended by the Housing and Rent Act of 1948, Section 209-A, Subdivision 5, provides that: "The landlord seeks in good faith to recover possession of such housing accommodations for the immediate purpose of withdrawing the housing accommodations from the rental market, and such housing accommodations shall not thereafter be offered for rent as such."

III.

Defendants set forth that they do intend to recover the possession of such housing accommodations for the immediate purpose of withdrawing such housing accommodations from the rental market and the defendants represent that the said housing accommodations will not be offered for rent as such and that the defendants will not rent said housing accommodations but will remove them from the rental market; that the defendants have the right to remove said housing accommodations from the rental market and have a right to evict any tenant occupying said premises for such purposes.

For a third separate and affirmative defense, these defendants set forth:

I.

That the defendants are the owners of the real property described in the plaintiff's complaint and

that said properties have been leased to the persons mentioned in said complaint since the early part of 1945; that the property at 3500 Easy Avenue, Long Beach, California, was leased to Lucy A. Heustis on or about the 15th day of January, 1945, at a rental of Fifty Dollars (\$50.00) per month, which at that time was in accordance with the O.P.A. ceiling price fixed for said property.

II.

That at the time said premises were leased to Lucy A. Heustis the said Lucy A. Heustis agreed to maintain said property in good order, to keep the lawns watered and to keep the premises in a clean and healthy condition.

III.

Defendants allege that the property occupied by said Lucy A. Heustis was so maintained by the said Lucy A. Heustis as to be dirty, filthy and in a complete state of disrepair; that the said Lucy A. Heustis permitted windows to be broken, hardwood floors to be marred and scratched with the floors being worn; that the linoleum was torn from the floor; that the window shades were broken and torn; that the premises were so misused so as to have marks on all the plaster walls; that the windows were jarred loose from the frames; that the toilet seat was broken; that the woodwork was scratched; that the lawns were unwatered and dry to the point of needing replacement; that said Lucy A. Heustis permitted the back yard to be littered with debris so as to need a complete replant-

ing; that the screens were broken and torn; that the tile was chipped and broken; that said property was so badly abused as to cause the same to depreciate in value and become unmerchantable [112] and unsalable.

IV.

That in addition thereto, the said house was leased to said Heustis in January of 1945 at a rental of Fifty Dollars (\$50.00) per month and that since said date the cost of maintaining said property has so increased as to cause the defendants to sustain a loss from its rental at said figure. That the said house has a value of approximately Nine Thousand Dollars (\$9,000.00) and that the following costs and expenditures are necessary in connection with the operation of said property, to-wit:

Taxes: \$110.00 per year.

Interest to the Bank of America under F.H.A. insured loan including $1\frac{1}{2}\%$ F.H.A. insurance: \$215.00 per year.

Fire insurance: \$12.00 per year.

Depreciation at 4% per year: \$294.00 per year.

Repairs consisting of redecorating or repairing the outside (on a basis of once every three years) at an average cost of \$86.00 or a cost of \$28.66 per year.

Replacement of screens at a cost of \$11.00 per year.

Repairs to plumbing, windows and miscellaneous repairs on an average of \$13.00 per year.

Total cost of maintenance of said property: \$708.00 per year; or a net cost of approximately

Fifty-nine Dollars (\$59.00) per month, exclusive of any return to the defendants on their investment and exclusive of any major repairs such as the replacement of the roof, replacement of lawns, replacement of worn-out plumbing or tile, replacement of water heaters, replacement of heating [113] system or other usual and customary replacements which have to be made over a period of years.

V.

Defendants further set forth that the payments which the said Lucy A. Heustis was making to the defendants were in the sum of Fifty Dollars (\$50.00) per month or Six Hundred Dollars (\$600.00) per year and that the defendants were sustaining a loss of Nine Dollars (\$9.00) per month or One Hundred Eight Dollars (\$108.00) per year without taking into account any consideration for a return to the capital investment of the defendants, without allowance for the collection of rents, without allowance for the office overhead and supervisory duties of the defendants and their employees, without allowances for accounting fees and the various and sundry other charges usually entailed in the handling and rental of property.

VI.

Defendants further set forth that upon it appearing that the defendants were sustaining a loss as set forth in the preceding paragraphs, they made application with the Office of Housing Expediter, Ben C. Koepke, and that after expending several hundred dollars for obtaining the necessary information including the time of the agents and repre-

representatives of the defendants, the Housing Expediter allowed a rent increase of One and twenty-five/one-hundredths Dollars (\$1.25) per month or a total of Fifteen Dollars (\$15.00) per year so that notwithstanding the increase in rent of One and twenty-five/one-hundredths Dollars (\$1.25) per month the defendants were still sustaining a loss of Ninety-three Dollars (\$93.00) per year and this without allowing anything to the defendants for office overhead, collections of rents, or any return on the investment of the defendants, nor for the replacement costs of damages to the property if the same was maintained for any period of time. [114]

VII.

That thereupon, the defendants elected to remove said property from the housing market and to have said property placed in such condition at an expenditure of several hundred dollars so as to be in a position to sell said property, and that the only purpose of reaching the conclusion to sell said property was by reason of the fact that the defendants could not obtain the necessary relief which would prevent them from taking the losses which they were sustaining from the rental of said property.

VIII.

That if said properties were not disposed of at the present time not only would the defendants be taking a loss on their property during the time it was occupied, but that the market value of said property which is now fixed at the sum of approximately Nine Thousand Dollars (\$9,000.00) may in

the future drop and that in such event, the defendants would not be able to lease the property even at a rental of Fifty Dollars (\$50.00) per month and they would then sustain greater losses, whereas if the defendants were now permitted to dispose of said property, they could do so without a loss.

For a fourth separate and affirmative defense these defendants allege:

I.

Defendants adopt and reallege all of their allegations of the Third Affirmative Defense and make the same a part hereof, as though the same were fully set forth at length herein.

II.

That under the Housing Act as hereinbefore referred to, the defendants had the right to remove said property from the rental market and that in connection they set forth that Title II of the Housing and Rent Act of 1947, as amended by the Housing and Rent Act of 1948, Section 209-A Subdivision 5, provides that: [115] "The landlord seeks in good faith to recover possession of such housing accommodations for the immediate purpose of withdrawing the housing accommodation from the rental market, and such housing accommodations shall not thereafter be offered for rental as such."

III.

Defendants set forth that they do intend to recover the possession of such housing accommodations for the immediate purpose of withdrawing such housing accommodations from the rental mar-

ket and the defendants represent that the said housing accommodations will not be offered for rent as such and that the defendants will not rent said housing accommodations but will remove them from the rental market and that as such, the defendants have the right to remove said housing accommodations from the rental market and have a right to evict any tenant occupying said premises for such purposes.

For a fifth separate and affirmative defense, these defendants set forth:

I.

That the defendants are the owners of the real property described in the plaintiff's complaint and that said properties have been lease to the persons mentioned in said complaint since the early part of 1945; that the property at 3533 Fashion Avenue, Long Beach, California, was leased to Paul R. Moberly on or about the 15th day of January, 1945 at a rental of Fifty Dollars (\$50.00) per month, which at that time was in accordance with the O.P.A. ceiling price fixed for said property.

II.

That at the time said premises were leased to Paul R. Moberly, the said Paul R. Moberly agreed to maintain said property in good order, to keep the lawns watered and to keep the premises in a clean and healthy condition. [116]

III.

Defendants allege that the property occupied by said Paul R. Moberly was so maintained by the said Paul R. Moberly as to be dirty, filthy and in

a complete state of disrepair; that the said Paul R. Moberly permitted windows to be broken, hard wood floors to be marred and scratched with the floors being worn; that the linoleum was torn from the floor; that the window shades were broken and torn; that the premises were so misused as to have marks on all the plaster walls; that the windows were jarred loose from the frames; that the toilet seat was broken; that the woodwork was scratched that the lawns were unwatered and dry to the point of needing replacement; that said Paul R. Moberly permitted the back yard to be littered with debris so as to need a complete replanting; that the screens were broken and torn; that the tile was chipped and broken; that said property was so badly abused as to cause the same to depreciate in value and become unmerchantable and unsalable.

IV.

That in addition thereto the said house was leased to said Moberly in January of 1945 at a rental of Fifty Dollars (\$50.00) per month and that since said date, the cost of maintaining said property has so increased as to cause the defendants to sustain a loss from its rental at said figure. That the said house has a value of approximately Nine Thousand Dollars (\$9,000.00) and that the following costs and expenditures are necessary in connection with the operation of said property to-wit:

Taxes; \$110.00 per year.

Interest to the Bank of America under F.H.A.

insured loan including $1\frac{1}{2}\%$ F.H.A. insurance; \$215.00 per year.

Fire insurance; \$12.00 per year.

Depreciation at 4% per year; \$294.00 per year.

Repairs consisting of redecorating [117] or repairing the outside (on a basis of once every three years) at an average cost of \$86.00 or a cost of \$28.66 per year.

Replacement of screens at a cost of \$11.00 per year.

Repairs to plumbing, windows and miscellaneous repairs on an average of \$13.00 per year.

Total cost of maintenance of said property; \$708.00 per year; or a net cost of approximately Fifty-nine Dollars (\$59.00) per month, exclusive of any return to the defendants on their investment and exclusive of any major repairs such as the replacement of the roof, replacement of lawns, replacement of worn-out plumbing or tile, replacement of water heaters, replacement of heating system or other usual and customary replacements which have to be made over a period of years.

V.

Defendants further set forth that the payments which the said Paul R. Moberly was making to the defendants were in the sum of Fifty Dollars (\$50.00) per month or Six Hundred Dollars (\$600.00) per year and that the defendants were sustaining a loss of Nine Dollars (\$9.00) per month or One Hundred Eight Dollars (\$108.00) per year

without taking into account any consideration for a return to the capital investment of the defendants, without allowance for the collection of rents without allowance for the office overhead and supervisory duties of the defendants and their employees without allowances for accounting fees and the various and sundry other charges usually entailed in the handling of rental of property.

VI.

Defendants further set forth that upon it appearing that [118] the defendants were sustaining a loss as set forth in the preceding paragraphs, they made application with the Office of Housing Expediter, Ben C. Koepke, and that after expending several hundred dollars for obtaining the necessary information including the time of the agent and representatives of the defendants, the Housing Expediter allowed a rent increase of One and twenty-five/one-hundredths Dollars (\$1.25) per month or a total of Fifteen Dollars (\$15.00) per year so that notwithstanding the increase in rent of One and Twenty-five/one-hundredths Dollars (\$1.25) per month the defendants were still sustaining a loss of Ninety-three Dollars (\$93.00) per year and this without allowing anything to the defendants for office overhead, collection of rents or any return on the investment of the defendants nor for the replacement costs of damages to the property if the same was maintained for any period of time.

VII.

That thereupon, the defendants elected to remove said property from the housing market and to have said property placed in such condition at an expenditure of several hundred dollars so as to be in a position to sell said property, and that the only purpose of reaching the conclusion to sell said property was by reason of the fact that the defendants could not obtain the necessary relief which would prevent them from taking the losses which they were sustaining from the rental of said property.

VIII.

That if said properties were not disposed of at the present time, not only would the defendants be taking a loss on their property during the time it was occupied, but that the market value of said property which is now fixed at the sum of approximately Nine Thousand Dollars (\$9,000.00) may in the future drop and that in such event the defendants would not be able to lease the property even at a rental of Fifty Dollars (\$50.00) per month [19] and they would then sustain greater losses, whereas if the defendants were now permitted to dispose of said property they could do so without loss.

For a sixth separate and affirmative defense, these defendants allege:

I.

Defendants adopt and reallege all of their allegations of the Fifth Affirmative Defense and make

the same a part hereof, as though the same were fully set forth at length herein.

II.

That under the Housing Act as hereinbefore referred to, the defendants had the right to remove said property from the rental market and that in that connection they set forth that Title II of the Housing and Rent Act of 1947, as amended by the Housing and Rent Act of 1948, Section 209-A Subdivision 5, provides that: "The landlord seeks in good faith to recover possession of such housing accommodations for the immediate purpose of withdrawing the housing accommodations from the rental market, and such housing accommodations shall not thereafter be offered for rent as such."

III.

Defendants set forth that they do intend to recover the possession of such housing accommodations for the immediate purpose of withdrawing such housing accommodations from the rental market and the defendants represent that the said housing accommodations will not be offered for rent as such and that the defendants will not rent said housing accommodations but will remove them from the rental market and that as such the defendants have the right to remove said housing accommodations from the rental market and have the right to evict any tenant occupying said premises for such purpose.

Wherefore, defendants pray that they have judgment and [120] that the preliminary injunction heretofore issued be dissolved and that the action as to the property concerning Henry Mor

wiecz be dismissed; that the Court decree that the defendants have the right to evict tenants in possession for the purpose of removing said housing accommodations from the rental market upon condition that the defendants do not offer said property for rent.

ALBERT H. ALLEN &

HYMAN GOLDMAN,

By /s/ ALBERT H. ALLEN,

Attorneys for Defendants.

(Acknowledgment of Service attached.)

[Endorsed]: Filed Aug. 10, 1948. [121]

Title of District Court and Cause.]

STIPULATION INCORPORATING
MATERIAL FROM A COMPANION CASE

It Is Stipulated that the Court's order on plaintiff's motion to strike from defendants' Answer to plaintiff's Complaint filed in Woods v. Sydney Mark Taper and Harding Manor, Inc., Case No. 8451-PH, shall be applied in this case as fully as though the motion had been made and ruled upon in this case insofar as said order is applicable to the facts of this case.

It Is Further Stipulated that the reply to plaintiff's requests for admissions in Woods v. Sydney Mark Taper and Harding Manor, Inc., No. 8451-PH and all proceedings on said requests and reply hereto shall be applied to this case as fully as if said requests had been served on the defendants in this case and replied to by them insofar as said requests and reply are pertinent to this case.

It Is Further Stipulated that the Court's order on the Motion for Summary Judgment filed in the action of Woods v. Sydney Mark Taper and Harding Manor, Inc., Case No. 8451-PH, shall likewise apply to this action as fully as though the Motion for Summary Judgment had been made and ruled upon in this case insofar as said order is applicable to the facts of this case.

It Is Further Stipulated that the defendants' Affidavits and Points and Authorities in support of the Motion for Summary Judgment shall be considered as though they had been filed in this action insofar as said Motion for Summary Judgment, the Affidavits and the Points and Authorities are pertinent to this case.

Dated Los Angeles, California, this 8th day of September, 1948.

ABE I. LEVY,
STEPHEN D. MONAHAN,
FRANK L. HIRST,
RICHARD G. SOLOF,

By /s/ BENJAMIN CHAPMAN,
Attorneys for Plaintiff.

ALBERT H. ALLEN and
HYMAN GOLDMAN,
By /s/ ALBERT H. ALLEN,
Attorneys for Defendants.

Good cause appearing therefor, it is so ordered.
This 10th day of September, 1948.

/s/ PAUL J. McCORMICK,
Judge.

[Endorsed]: Filed Sept. 10, 1948. [124]

In the District Court of the United States,
Southern District of California, Central Division

No. 8453-PH

TIGHE E. WOODS, Housing Expediter, Office of
the Housing Expediter,

Plaintiff,

vs.

SYDNEY MARK TAPER, WARDLOW AN-
NEX, INC., DOE I, DOE II and DOE III,
Defendants.

COMPLAINT FOR PRELIMINARY AND
FINAL INJUNCTION AND FOR OTHER
RELIEF

I.

Plaintiff, as Housing Expediter, Office of the
Housing Expediter, brings this action for an in-
junction and other appropriate relief pursuant to
Section 206 of the Housing and Rent Act of 1947
as amended, for the purpose of enjoining the
defendants from evicting from the hereinafter
described housing accommodations the hereinafter
described persons.

II.

Jurisdiction is conferred on this Court by Section
206 of the Housing and Rent Act of 1947 as
amended.

III.

The defendant Wardlow Annex, Inc., is a cor-
poration duly organized and existing under the
laws of the State of California.

IV.

At all times hereinafter mentioned defendants were the landlords of [125] the housing accommodations located at 3733 Easy Avenue, Long Beach, California.

V.

At all times hereinafter mentioned there was in effect in the Los Angeles Defense Rental Area a Controlled Housing Rent Regulation (12 F. R. 4331).

VI.

At all times hereinafter mentioned the housing accommodations hereinafter described were subject to said aforementioned Act and Regulation and particularly Section 209 of said Act.

VII.

That the defendants, Doe I, Doe II and Doe III, are fictitious names of the defendants, whose true names are to this plaintiff unknown, and plaintiff asks that when these true names are discovered this complaint may be amended by inserting such true names in the place and stead of such fictitious names. Wherever the word "defendant" is used in this complaint, it shall include all of the defendants individually and collectively herein sued.

VIII.

That the defendants are residents within the County of Los Angeles, State of California, have their principal place of business within said County, and are within the jurisdiction of this Court.

IX.

That on or about June 3, 1948 the defendants, as landlords, commenced proceedings to evict from the housing accommodations at 3733 Easy Avenue, Long Beach, California, one, Max Ravnitzky, a tenant thereof and other persons lawfully in occupancy thereof by serving upon the said Max Ravnitzky a Notice to Quit, basing said notice expressly on the landlord's desire in good faith to recover possession of such housing accommodations for the immediate purpose of withdrawing such housing accommodations from the rental market and such housing accommodations shall not thereafter be offered for rent as such. That the defendants commenced such proceedings and served such notice for the expressly avowed purpose of making said housing accommodations vacant in order that the same might be sold to persons who would purchase such housing accommodations [126] for use as their residences.

X.

That defendants are engaged in evicting tenants from other properties of which they are the landlords, individually and under the guise of corporate structure, by serving notices to quit similar to the notice described in Paragraph IX of this complaint and with the same express avowed purpose alleged in said Paragraph IX, of which four such instances are known to plaintiff.

XI.

That said acts hereinabove alleged are in violation of the provisions of the Housing and Rent

Act of 1947 as amended, that unless defendants are restrained from further acts in furtherance of their design set forth above, they will evict said tenant and said defendant Sydney Mark Taper, and Wardlow Heights, Inc., and Harding Manor, Inc., of which he is president and a major stockholder, will proceed to evict numerous tenants in numerous housing accommodations under similar circumstances and for similar purposes as hereinabove set forth.

Wherefore, the plaintiff demands:

A preliminary and final injunction enjoining the defendants, their agents, servants, employees, and all persons in active concert or participation with them from:

1. Evicting said Max Ravnitzky and other persons now in occupancy at the premises at 3733 Easy Avenue, Long Beach, California, from said premises.

2. Engaging in any action or course of action, the purpose of which is to evict illegally tenants from the above-described premises, or any other housing accommodations owned, controlled, or managed by the defendants, or from evicting said tenants in any form or manner contrary to the Housing and Rent Act of 1947 and Regulations issued thereunder, as heretofore or hereafter amended or superseded.

3. Directly or indirectly demanding or receiving amounts in excess of the maximum legal rent, or from discontinuing, withholding, suspending, or shutting off the normal supply of heat, light, gas, hot and cold water, janitorial services, or other

essential services and utilities, or threatening [127] to do any of the foregoing.

4. Violating the Housing and Rent Act of 1947, as amended, and Regulations issued thereunder, as heretofore or hereafter amended or superseded.

5. Violating the Housing and Rent Act of 1947, as amended, and Regulations issued thereunder, as heretofore or hereafter amended or superseded, by accepting, demanding, or receiving, in any form or manner, rents higher than the established maximum rent prescribed therein.

Dated: Los Angeles, California, this 20 day of July, 1948.

ABE I. LEVY,
STEPHEN D. MONAHAN
FRANK L. HIRST,
RICHARD G. SOLOF,

By: /s/ CASSEL JACOBS,
Attorneys for Plaintiff.

State of California, County of Los Angeles,
United States of America—ss.

Ruth Rauh, being first duly sworn, deposes and says:

That plaintiff is absent from the County of Los Angeles; that the undersigned is an employee of the United States Government, and during the time specified in the complaint, as hereinabove set forth, she was employed as a Compliance Negotiator for the Office of the Housing Expediter, an agency of the United States Government; that in the course of her duty as a Compliance Negotiator for the Office of the Housing Expediter she made an in-

vestigation of and became familiar with the facts involved in the above mentioned action; that she has read the foregoing complaint and knows the contents thereof; and that the same is true of her own knowledge, except as to the matters which are therein stated upon information and belief, and as to those matters that she believes it to be true.

/s/ RUTH RAUH.

Subscribed and sworn to before me this 19th day of July, 1948.

(Seal)

/s/ H. C. ZECH,

Notary Public, in and for said
County and State.

My Commision expires October 26, 1951.

[Endorsed]: Filed July 20, 1948.

[Title of District Court and Cause.]

AFFIDAVIT IN SUPPORT OF PLAINTIFF'S
MOTION FOR PRELIMINARY INJUNCTION

AFFIDAVIT OF CHARLES H. BLAYLOCK

State of California,
County of Los Angeles—ss.

I, Charles H. Blaylock, having been first duly sworn, depose and say, as follows:

That I am Associate Area Rent Director for the Los Angeles Defense Rental Area, Office of the Housing Expediter, in charge of the operations of the Los Angeles Defense Rental Area Office at Long Beach, California. That I am familiar with the records of the Los Angeles Defense Rental Area

Office relating to the housing accommodations located at the following address: 3733 Easy Avenue, Long Beach, California.

That said records of the Area Rent Office relating to said housing accommodations show that said housing accommodations are controlled housing accommodations and that they are subject to the provisions of the Rent Regulation for Controlled Housing. Mr. Sydney Mark Taper and corporations with which [131] he is associated are the landlords of numerous housing accommodations in the Long Beach, Area.

Dated: July 7th, 1948.

/s/ CHARLES H. BLAYLOCK.

Subscribed and sworn to before me this 7th day of July, 1948.

(Seal)

CORA A. KIRCHNER,

Notary Public in and for the above County and State.

My Commission expires 11-11-51. [132]

AFFIDAVIT OF RUTH RAUH

State of California,
County of Los Angeles—ss.

I, Ruth Rauh, having been first duly sworn, depose and say, as follows:

That I am an employee of the Los Angeles Defense Rental Area Office, Office of the Housing Expediter, and my duties relate to housing accommodations in the Long Beach, California, Area. That as such employee I interviewed Mr. Harold C.

Frerks, Attorney for Sydney Mark Taper, President of Wardlow Heights, Inc., Harding Manor, Inc. and Wardlow Annex, Inc. That Mr. Frerks, as attorney for Mr. Taper, signed the following statement which is on file in the records of the Los Angeles Defense Rental Area Office at Long Beach, California:

“I believe that the O.H.E. opinion as to this section relates to where a certain purchaser or sale is involved, and not as to where a landlord intends to get possession [133] so that he can redecorate or add a room to the place for any future sale to parties unknown, who will occupy the place for themselves and not for rental purposes. H. C. Frerks.”

That the above statement of Mr. Frerks was made in connection with a notice to quit, served by Harding Manor, Inc. on Alvin L. Fite, et al, respecting the premises at 2538 Gale Avenue, Long Beach, California, and concerning an eviction notice served by Wardlow Annex, Inc., by S. M. Taper, on Max Ravnitzky, et al, relating to the premises at 3733 Easy Avenue, Long Beach, California.

That the statement had reference to housing and to Memorandum No. 51 issued by B. W. Diggle, Deputy Housing Expediter, Rent Operations, and Robert A. Sauer, Assistant General Counsel, Regulations and Appeals Branch, Office of the Housing Expediter, Washington, D. C., which states, in part, as follows:

“To Secure Vacant Possession for Purposes of Sale.

“Section 209(a)(5) permits eviction where ‘the landlord seeks in good faith to recover possession of such housing accommodations for the immediate purpose of withdrawing such housing accommodations from the rental market***’. Since this is only one of several grounds for eviction under the Act, it is clear that it was not intended that this section should broaden or defeat the purpose of limitations placed in the other grounds. It follows, therefore, that since Section 209(a)(3) provides for eviction where ‘the landlord has in good faith contracted in writing to sell the housing accommodations to a purchaser for the immediate and personal use and occupancy as housing accommodations by such purchaser; Section 209(a)(5) may not be used in cases where sales are involved. That is to say, since a tenant may be evicted for occupancy by a purchaser under Section 209(a)(3), a landlord may not evict under Section 209(a)(5) for the purpose of [134] obtaining vacant possession in order to sell.

“Section 206(b) of the Act authorizes the Housing Expediter to seek injunction against violations of the eviction provisions and consequently, any violations of the eviction restriction referred to above may be referred to Litigation for appropriate action.”

Mr. Frerks further stated to me, at the time he signed the above statement on June 11, 1948, at the Long Beach Office of the Housing Expediter, 110 East Anaheim Street, Long Beach, California, that the above premises are to be repaired and gen-

erally remodeled and eventually sold to prospective purchasers, that it is the intention to take the cases into court for the Court's decision on eviction. I advised Mr. Frerks that the reason stated in the notice to quit would seem to be in violation of Section 209(a)(5) of the Housing and Rent Act of 1947 as amended, in that it does involve a sale of the housing accommodations.

It is my impression, as a result of my conversation with Mr. Frerks that his clients named above are about to commence eviction proceedings in numerous instances.

Dated: July 7, 1948.

/s/ RUTH RAUH.

Subscribed and sworn to before me this 7th day of July, 1948.

(Seal)

CORA A. KIRCHNER,

Notary Public, in and for the
above County and State.

My Commission expires 11-11-51. [135]

AFFIDAVIT OF MAX RAVNITZKY

State of California,

County of Los Angeles—ss.

I, Max Ravnitzky, having been first duly sworn, depose and say as follows:

That on or about June 3, 1948 Wardlow Annex, Inc., by S. M. Taper, President, as landlord of the premises wherein I reside at 3733 Easy Avenue, Long Beach, California, served me with a written

notice to quit said premises at the expiration of sixty days after service of the notice.

Dated July 3rd, 1948.

/s/ MAX RAVNITZKY.

Subscribed and sworn to before me this 3rd day of July, 1948.

(Seal)

/s/ HAZEL TECK,

Notary Public, in and for the
above County and State.

My Commission expires 12/31/49.

[Endorsed]: Filed July 20, 1948. [136]

[Title of District Court and Cause.]

ORDER TO SHOW CAUSE

Upon reading the verified complaint, memorandum of points and authorities and affidavits filed by plaintiff, and good cause appearing therefor:

It is hereby ordered that defendants Sydney Mark Taper and Wardlow Annex, Inc. appear before this Court in Courtroom Number 3 on the second floor of the United States Post Office and Courthouse Building, 312 North Spring Street, Los Angeles, California, on the 26th day of July, 1948, at 10:00 o'clock A. M. in the forenoon, or as soon thereafter as the matter can be heard, and show cause, if any there be, why this Court, pending trial of this action, should not grant a preliminary injunction restraining the defendants, their agents, servants and employees and all persons in active concert or participation with them according to the prayer of the complaint.

It is further ordered that a copy of the affidavits and points and authorities filed by the plaintiff and a copy of this order be served with the [137] summons and complaint herein upon defendants Sydney Mark Taper and Wardlow Annex, Inc. not later than the 22nd day of July, 1948.

Dated: Los Angeles, California, this 20th day of July, 1948.

/s/ PAUL J. McCORMICK,
Judge.

[Endorsed]: Filed July 20, 1948. [138]

[Title of District Court and Cause.]

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The plaintiff having filed his verified complaint and his affidavits and memorandum of points and authorities in support of his motion for preliminary injunction and the defendants Sydney Mark Taper, and Wardlow Annex Inc. through its President, Sydney Mark Taper, each having been personally served with a copy of the verified complaint, a copy of the order to show cause, a copy of the memorandum of points and authorities and affidavits in support of plaintiff's motion for preliminary injunction on the 22nd day of July, 1948, and the cause having come on regularly for hearing on the 26th day of July, 1948, before the Honorable Peirson M. Hall, Judge Presiding, and the plaintiff being represented by Frank L. Hirst, Esq. and

said defendants not appearing in person or by counsel, and said cause having been continued by order of the Court for hearing to the 27th day of July, 1948 at 10:00 o'clock A. M., at which time the cause was submitted on plaintiff's verified complaint, affidavits and memorandum of points and authorities in support of his motion [139] for preliminary injunction, no evidence having been offered in opposition to plaintiff's motion by said defendants, and no affidavits having been filed by them in opposition to said motion, and the Court having considered all of the allegations in said verified complaint and said affidavits, the said allegations being unopposed and the Court being fully apprised of the premises, makes the following findings of fact:

FINDINGS OF FACT

1. That the plaintiff as Housing Expediter, Office of the Housing Expediter, brings this action for an injunction and makes his motion for a preliminary injunction pursuant to Section 206 of the Housing and Rent Act of 1947 as amended, for the purpose of enjoining the defendants from existing from the hereinafter described housing accommodations the hereinafter described persons.
2. That jurisdiction of this action is conferred on this Court by Section 206 of the Housing and Rent Act of 1947 as amended.
3. That the defendant Wardlow Annex Inc. is a corporation, duly authorized and existing under the laws of the State of California.

4. That at all times hereinafter mentioned the defendants were the landlords of the housing accommodations located at 3733 Easy Avenue, Long Beach, California.

5. That at all times pertinent hereto there was in effect in the Los Angeles Defense Rental Area a controlled Housing Rent Regulation (12 F. R. 4331).

6. That at all times pertinent hereto the housing accommodations hereinabove described were subject to said aforementioned Act and Regulation, particularly Section 209 of said Act.

7. That the defendants Sydney Mark Taper and Wardlow Annex Inc. are residents within the County of Los Angeles, State of California, having their principal place of business within said county and are within the jurisdiction of this Court.

8. That on or about June 3, 1948 said defendants, as landlords, commenced proceedings to evict from the housing accommodations at 3733 Easy Avenue, Long Beach, California, one, Max Ravnitzky, a tenant thereof, and other persons [140] lawfully in occupancy thereof by serving upon the said Max Ravnitzky a Notice to Quit, basing said notice expressly on the landlord's desire in good faith to recover possession of said housing accommodations for the immediate purpose of withdrawing said housing accommodations from the rental market and such housing accommodations are not thereafter to be offered for rent as such.

9. That said defendants commenced such proceedings and served such notice for the expressly avowed purpose of making said housing accommodations vacant in order that the same might be re-decorated and thereafter sold to persons who would purchase such housing accommodations for use as their residences.

10. That said defendants are engaged in evicting tenants from other housing accommodations subject to said Act and said Regulation of which they are the landlords individually and under the guise of corporate structure by serving notices to quit similar to the notice to quit hereinabove described and with the same expressly avowed purpose as hereinabove set forth.

11. That unless defendants are restrained from further acts in furtherance of their design set forth above they will evict said tenant and said Sydney Mark Taper and Wardlow Annex Inc., of which said Sydney Mark Taper is President and a major stockholder, will proceed to evict numerous other tenants in numerous other controlled housing accommodations owned, controlled or managed by said defendants, under similar circumstances and for the same purpose as hereinabove set forth.

From the above Findings of Fact, the Court makes the following:

CONCLUSIONS OF LAW

1. That the purpose for which said defendant Sydney Mark Taper and Wardlow Annex Inc. have commenced said eviction proceedings and served

said notices to quit on said Max Ravnitzky and said other tenants hereinabove referred to does not constitute a proper ground for eviction within the meaning of Section 209(a)(5) of said Housing and Rent Act of 1947 as amended nor any other subdivision of said Section 209.

2. That the plaintiff herein is entitled to a preliminary injunction, pending the determination of the Court on plaintiff's complaint for a permanent [141] injunction, enjoining the defendants Sydney Mark Taper and Wardlow Annex Inc., their agents, servants, employees, attorneys, officers and directors, and all other persons in active concert or participation with them from:

(a) Evicting Max Ravnitzky and all other persons in occupancy of the housing accommodations located at 3733 Easy Avenue, Long Beach, California, except in accordance with the provisions of Section 209 of the Housing and Rent Act of 1947 as amended and on the grounds and for the purposes stated therein.

(b) Engaging in any action or course of action the purpose of which is to evict illegally tenants from the above-described premises, or any other housing accommodations owned, controlled, or managed by the defendants, or from evicting said tenants in any form or manner contrary to the Housing and Rent Act of 1947 and Regulations issued thereunder, as heretofore or hereafter amended or superseded.

(c) Directly or indirectly demanding or receiving amounts in excess of the maximum legal rent, or from discontinuing, withholding, suspending, or shutting off the normal supply of heat, light, gas, hot and cold water, janitorial services, or other essential services and utilities, or threatening to do any of the foregoing.

Dated: Los Angeles, California, this 27th day of July, 1948.

/s/ PEIRSON M. HALL,
Judge.

Presented by:

ABE I. LEVY, STEPHEN D. MONAHAN,
FRANK L. HIRST, RICHARD G.
SOLOF,

By: /s/ FRANK L. HIRST,
Attorneys for Plaintiff.

[Endorsed]: Filed July 27, 1948. [142]

[Title of District Court and Cause.]

DECREE FOR PRELIMINARY INJUNCTION

This cause came on regularly for hearing on the motion of the plaintiff for a preliminary injunction on July 28, 1948 before the Honorable Peirson M. Hall, Judge Presiding, and was continued for hearing to July 27, 1948 at 10:00 o'clock A. M. Plaintiff was represented by Frank L. Hirst, Esq., and defendants Sydney Mark Taper and Wardlow Annex Inc. were not present and not represented by counsel. The Court having considered plaintiff's verified

complaint and affidavits and memorandum of point and authorities in support of plaintiff's motion for a preliminary injunction, said defendants not having submitted either affidavits or other evidence, and the Court having this day made its written finding of fact and conclusions of law, and being fully advised in the premises, now therefor,

It is ordered, adjudged and decreed that the defendants Sydney Mark Taper and Wardlow Anne Inc., their agents, servants, employees, attorneys officers and directors and all other persons in active concert or [143] participation with them are hereby enjoined and restrained until further order of the Court herein from:

1. Evicting Max Ravnitzky and all other person in occupancy of the housing accommodations located at 3733 Easy Avenue, Long Beach, California except in accordance with the provisions of Section 209 of the Housing and Rent Act of 1947 as amended and on the grounds and for the purpose stated therein.

2. Engaging in any action or course of action the purpose of which is to evict illegally tenants from the above-described premises, or any other housing accommodations owned, controlled, or managed by the defendants, or from evicting said tenants in any form or manner contrary to the Housing and Rent Act of 1947 and Regulations issued thereunder, as heretofore or hereafter amended or superseded.

3. Directly or indirectly demanding or receiving amounts in excess of the maximum legal rent or from discontinuing, withholding, suspending, or

shutting off the normal supply of heat, light, gas, hot and cold water, janitorial services, or other essential services and utilities, or threatening to do any of the foregoing.

Dated: Los Angeles, California, this 27th day of July, 1948. 4:55 P. M.

/s/ PEIRSON M. HALL,
Judge.

Presented by:

ABE I. LEVY

STEPHEN D. MONAHAN

FRANK L. HIRST

RICHARD G. SOLOF

By /s/ FRANK L. HIRST,
Attorneys for Plaintiff.

Judgment entered July 28, 1948. Docketed July 28, 1948, Book 52, Page 275.

[Endorsed]: Filed July 27, 1948. [144]

[Title of District Court and Cause.]

ANSWER

Come now the defendants, Sydney Mark Taper, Harding Manor, Inc., a corporation, Wardlow Annex, Inc., a corporation, and Wardlow Heights, Inc., a corporation, and answering the complaint of the plaintiff on file herein admit, deny and allege as follows:

I.

Answering Paragraph V, these defendants admit that at all times mentioned in the complaint there was in effect the Housing and Rent Act of 1947, as amended by the Housing and Rent Act of 1948, and admit that the property of the defendants is in the Los Angeles Defense Rental Area which is a controlled housing rent area, and that there was in effect in the Los Angeles Defense Rental Area controlled housing rent regulation (12 F. R. 4331).

II.

Answering Paragraph IX, these defendants admit that on or about, to-wit, the third day of June 1948, the defendant, Wardlow Annex, Inc., a corporation, as landlord, commenced proceedings to evict from the housing accommodations at 373 Easy Avenue, Long Beach, California, Max Ravnitzky, a tenant thereof, and that there was served upon said Max Ravnitzky a notice to quit, which said notice set forth that the landlord desired in good faith to recover possession of the housing accommodations for the immediate purpose of withdrawing such housing accommodations from the rental market and that such housing accommodations would not thereafter be offered for rent as such. Admits that the defendant commenced the proceedings and served the notice and admits that the purpose of such notice was for the purpose of evicting the said Max Ravnitzky, but denies that there was any bad faith or other ulterior motives on the part of the said landlord and defendant.

Wardlow Annex, Inc.; denies each and every other allegation in said paragraph contained.

III.

Answering Paragraphs X and XI, these defendants deny that said acts hereinbefore referred to and as set forth in the plaintiff's complaint are in violation of the provisions of the Housing and Rent Act of 1947, as amended; on the contrary, allege that said acts are within the provisions of the regulations; deny each and every other allegation in said paragraph contained.

For a first separate and affirmative defense, these defendants set forth:

I.

That the defendants are the owners of the real [146] property described in the plaintiff's complaint and that said properties have been leased to the persons mentioned in said complaint since the early part of 1945, that the property at 3733 Easy Avenue was leased to Max Ravnitzky on or about the 15th day of January, 1945 at a rental of Fifty Dollars (\$50.00) per month, which at that time was in accordance with the O.P.A. ceiling price fixed for said property.

II.

That at the time said premises were leased to Max Ravnitzky, the said Max Ravnitzky agreed to maintain the property in good order, to keep the lawns watered and to keep the premises in a clean and healthy condition.

III.

Defendants allege that the property occupied by said Max Ravnitzky was so maintained by the said Max Ravnitzky so as to be dirty, filthy and in a complete state of disrepair; that the said Max Ravnitzky permitted windows to be broken, hardwood floors to be marred and scratched with the floors being worn; that the linoleum was torn from the floor; that the window shades were broken and torn; that the premises were so misused so as to have marks on all the plaster walls; that the windows were jarred loose from the frames; that the toilet seat was broken; that the woodwork was scratched; that the lawns were unwatered and dry to the point of needing replacement; that said Max Ravnitzky permitted the back yard to be littered with debris so as to need a complete replanting; that the screens were broken and torn; that the tile was chipped and broken; that said property was so badly abused as to cause the same to depreciate in value and become unmerchantable and unsalable.

IV.

That in addition thereto, the said house was leased to said Ravnitzky in January of 1945 at a rental of Fifty Dollars (\$50.00) per month and that since said date the cost of maintaining said property has so increased as to cause the defendants to sustain a loss as a result of its rental at said figure. That the said house has a value of approximately Nine Thousand Dollars (\$9,000.00) and that the follow-

ng costs and expenditures are necessary in connection with the operation of said property, to-wit:

Taxes: \$110.00 per year.

Interest to the Bank of America under FHA Insured loan, including $\frac{1}{2}\%$ FHA insurance \$215.00 per year.

Fire Insurance: \$12.00 per year.

Depreciation at 4% per year \$294.00 per year.

Repairs consisting of redecorating or repairing the outside (on a basis of once every three years) at an average cost of \$86.00 or a cost of: \$28.66 per year.

Replacement of screen at a cost of \$11.00 per year.

Repairs to plumbing, windows and miscellaneous repairs on an average of \$13.00 per year.

Total Cost of maintenance of said property \$708.00 per year or a net cost of approximately Fifty-nine Dollars (\$59.00) per month, exclusive of any return to the defendants on their investment and exclusive of any major repairs such as the replacement of the roof, replacement of lawns, replacement of worn-out plumbing or tile, replacement of water heaters, replacement of heating system or other usual and customary replacements which have to be [148] made over a period of years, exclusive of interior decoration.

V.

Defendants further set forth that the payment which the said Max Ravnitzky was making to the defendants were in the sum of Fifty Dollars (\$50.00) per month or Six Hundred Dollars (\$600.00) per year and that the defendants were sustaining a loss of Nine Dollars (\$9.00) per month or One Hundred Eight Dollars (\$108.00) per year without taking into account any consideration for a return on the capital investment of the defendants, without allowing for the collection of rent without allowance for the office overhead and supervisory duties of the defendants and their employees without allowances for accounting fees and the various and sundry other charges usually entailed in the handling and rental of property.

VI.

Defendants further set forth that upon it appearing that the defendants were sustaining a loss as set forth in the preceding paragraphs, they made application with the Office of Housing Expediter Ben C. Koepke, and that after expending several hundred dollars for obtaining the necessary information including the time of the agents and representatives of the defendants in gathering information requested by the Housing Expediter, the Housing Expediter allowed a rent increase of One and twenty-five/one-hundredths Dollars (\$1.25) per month or a total of Fifteen Dollars (\$15.00) per year, so that notwithstanding the increase in rent of One and twenty-five/one-hundredths Dollars (\$1.25) per month, the defendants were still sustain-

ing a loss of Ninety-three Dollars (\$93.00) per year and this without allowing anything to the defendants for office overhead, collection of rents, or any return on the investment of the defendants, nor for the replacement costs of damages to the property if the same was maintained for any period of time; that notwithstanding such increase [149] defendants were sustaining a loss of Two Hundred Twenty-five Dollars (\$225.00) per year on said house.

VII.

That thereupon, the defendants elected to remove said property from the housing market and to have said property placed in such condition as an expenditure of several hundred dollars so as to be in a position to sell said property, and that the only purpose of reaching the conclusion to sell said property was by reason of the fact that the defendants could not obtain the necessary relief which would prevent them from taking the losses which they were sustaining from the rental of said property.

VIII.

That if said properties were not disposed of at the present time, not only would the defendants be taking a loss on their property during the time it was occupied, but that the market value of said property which is now fixed at the sum of approximately Nine Thousand Dollars (\$9,000.00) may in the future drop and that in such event, the defendants would not be able to dispose of the property,

at its present value; that likewise at a later date, the property may depreciate so that even at a rental of Fifty Dollars (\$50.00) per month they would then sustain great losses, whereas if the defendants were now permitted to dispose of said property they could do so without a loss and recover their investment.

For a second separate and affirmative defense, these defendants allege:

I.

Defendants adopt and reallege all of their allegations of the First Affirmative Defense and make the same a part hereof, as though the same were fully set forth as length herein.

II.

That under the Housing Act as hereinbefore referred to, [150] the defendants had the right to remove said property from the rental market and that in that connection they set forth that Title II of the Housing and Rent Act of 1947, as amended by the Housing and Rent Act of 1948, Section 209A, Subdivision 5, provides that: "The landlord seeks in good faith to recover possession of such housing accommodations for the immediate purpose of withdrawing the housing accommodations from the rental market, and such housing accommodations shall not thereafter be offered for rent as such."

III.

Defendants set forth that they do intend to recover the possession of such housing accommodations for the immediate purpose of withdrawing such housing accommodations from the rental market and the defendants represent that the said housing accommodations will not be offered for rent as such and that the defendants will not rent said housing accommodations but will remove them from the rental market; that the defendants have the right to remove said housing accommodations from the rental market and have a right to evict any tenant occupying said premises for such purposes.

Wherefore, defendants pray that they have judgment and that the preliminary injunction heretofore issued be dissolved and that the action as to the property concerning Max Ravnitzky be dismissed; that the court decree that the defendants have the right to evict tenants in possession for the purpose of removing said housing accommodations from the rental market upon condition that the defendants do not offer said property for rent.

ALBERT H. ALLEN &
HYMAN GOLDMAN

By /s/ ALBERT H. ALLEN
Attorneys for Defendants.

(Acknowledgment of service attached.)

[Endorsed]: Filed August 10, 1948. [151]

[Title of District Court and Cause.]

STIPULATION INCORPORATING MA-
TERIAL FROM COMPANION
CASE

It is stipulated that the Court's order on plaintiff's motion to strike from defendants' Answer to plaintiff's Complaint filed in Woods v. Sydney Mark Taper and Harding Manor Inc., Case No. 8451-PH, shall be applied in this case as fully as though the motion had been made and ruled upon in this case insofar as said order is applicable to the facts of this case.

It is further stipulated that the reply to plaintiff's request for admission in Woods v. Sydney Mark Taper and Harding Manor Inc., No. 8451-PH, and all proceedings on said requests and reply, thereto shall be applied to this case as fully as if said requests had been served on the defendants in this case and replied to by them insofar as said requests and reply are pertinent to this case.

It is further stipulated that the Court's order on the [153] Motion for Summary Judgment filed in the action of Woods v. Sydney Mark Taper and Harding Manor, Inc., Case No. 8451-PH, shall likewise apply to this action as fully as though the Motion for Summary Judgment had been made and ruled upon in this case insofar as said order is applicable to the facts of this case.

It is further stipulated that the defendants' Affidavits and Points and Authorities in support of

the Motion for Summary Judgment shall be considered as though they had been filed in this action insofar as said Motion for Summary Judgment, the Affidavits and the Points and Authorities are pertinent to this case.

Dated: Los Angeles, California, this 8th day of September, 1948.

ABE I. LEVY,
STEPHEN D. MONAHAN,
FRANK L. HIRST,
RICHARD G. SOLOF,

By: /s/ BENJAMIN J. CHAPMAN,
Attorneys for Plaintiff.

ALBERT H. ALLEN AND
HYMAN GOLDMAN

By: /s/ ALBERT H. ALLEN,
Attorneys for Defendants.

Good Cause appearing therefore, it is so ordered.
This 10th day of September, 1948.

/s/ PAUL J. McCORMICK,
Judge.

[Endorsed]: Filed September 10, 1948. [154]

[Title of District Court and Cause.]

AFFIDAVITS OF HETTYLEIGH CATLETT

Plaintiff herewith files the Affidavit of Hettyleigh Catlett respecting the property at 2538 Gale Avenue, Long Beach, California.

ABE I. LEVY,
STEPHEN D. MONAHAN,
FRANK L. HIRST,
RICHARD G. SOLOF,
BENJAMIN CHAPMAN,

By /s/ BENJAMIN CHAPMAN,
Attorneys for Plaintiff.

(Acknowledgment of Service.) [161]

AFFIDAVIT

State of California,
County of Los Angeles—ss.

Hettyleigh Catlett, being first duly sworn, deposes and says:

That her name is Hettyleigh Catlett, and that she resides at 1609 Chestnut Avenue, Long Beach 13, California;

That she has been continuously employed since August 1, 1944 and presently so employed, as a Rent Inspector for the Office of the Housing Expediter and its predecessors: Office of Temporary Control, Office of Rent Controls; and the Office of Price Administration, Rent Division.

That during her employment, her Official Station has been and is now the Long Beach Branch Office.

That on September 21, 1948, Affiant personally inspected those certain housing accommodations known as 2538 Gale Avenue, Long Beach, California, which were then occupied by Mr. and Mrs. J. E. Wampler.

That Mrs. J. E. Wampler was personally interviewed and Mrs. Wampler stated that she and her husband had purchased the dwelling from Biltmore Homes Corporation, the former owner, and moved into the premises on or about August 15, 1948. Mrs. Wampler stated that there was no written agreement executed between the seller, Biltmore Homes, S. M. Taper, et al, wherein Mr. and Mrs. Wampler had agreed not to re-rent the premises at any future time nor during the time when the Housing and Rent Act and Regulations issued pursuant thereto for controlled housing accommodations would affect the rental of said property.

Further Mrs. Wampler stated that there had not been any substantial remodeling or alterations made since the former tenants, Mr. and Mrs. Alvin Fite and family, had vacated the premises, but that after purchasing the property, Mr. and Mrs. Wampler painted the interior of the dwelling.

Mrs. Wampler stated that the sink, lavatory and toilet were cracked when they took possession of the property but that these repairs were not made by the seller nor the sale of the premises conditioned upon the seller making these repairs.

Further that no repairs of any nature whatever had been made by the seller between the time that the former tenants vacated the premises and the

date upon which they were occupied by Mr. and Mrs. Wampler. [162]

Further, that an inspection of the premises by the Affiant did not disclose that any damage had been done to the premises by the former tenant occupants which would require repairs before occupancy by the present owners, normal wear, tear and use excepted.

Affiant further states that on September 21, 1948, Mrs. Fite who formerly occupied the premises at 2538 Gale Avenue, Long Beach, California, with her husband, Mr. Fite, was interviewed in her home at 867 33rd Street, Long Beach, California.

Mrs. Fite stated to the Affiant that she and her husband vacated the premises at 2538 Gale Avenue, Long Beach, California, on July 7, 1948, as a result of a sixty day eviction notice served on Mrs. Fite and her husband by the former owners, Biltmore Homes Corporation, S. M. Taper, et al, which provided for the removal of certain housing accommodations from the rental market and that she understood that the housing accommodations were to be offered for sale.

Mrs. Fite further stated on or about two weeks prior to the date that the eviction notice was served on her and her husband at 2538 Gale Avenue, Long Beach, California, a representative from the then owners, Biltmore Homes, called at said premises for the purpose of inspection and stated at that time to Mrs. Fite, that the dwelling was in very good condition.

Mrs. Fite further stated that by reason of the fact that said notice to quit was served upon herself and husband, they were obliged to purchase property for housing accommodations at 867 33rd Street, Long Beach, California.

/s/ HETTYLEIGH CATLETT.

Subscribed and sworn to before me this 23rd day of September, 1948.

/s/ CORA B. KIRCHINS,

Notary Public in and for the County of Los Angeles, State of California.

(My Commission Expires 11-11-51.)

[Endorsed]: Filed September 30, 1948. [163]

[Title of District Court and Cause.]

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This cause came on regularly for hearing before the Court sitting without a jury on Monday September 27, 1948, on the Motion of Albert H. Allen and Hyman Goldman, Attorneys for the defendants, for a Summary Judgment, Albert H. Allen appearing as an attorney for defendants and Abe I. Levy, Stephen D. Monahan, Frank L. Hirst, Richard G. Solof and Benjamin Chapman, by Benjamin Chapman, appearing as attorneys for the plaintiff, and the Court having read the [169] pleadings and having examined the affidavits filed by the respective parties and having examined the Motion

for Summary Judgment filed by the defendants and the defendants having offered to withdraw the affirmative defenses set up by them in their Answers and the Court having examined the Points and Authorities in support of defendants Motion for Summary Judgment, and the plaintiffs Points and Authorities, and Affidavits in opposition thereto, and the Court having examined the admissions and the defendants having made certain offers as is hereinafter more fully set forth and the Court being fully advised in the premises, the Court finds the facts as follows:

1. That the actions entitled Tighe E. Woods, Housing Expediter, et al. vs. Sydney Mark Taper and Harding Manor, Inc., et al., Civil No. 8451-PH, and the action entitled Tighe E. Woods, Housing Expediter, et al. vs. Sydney Mark Taper, Wardlow Heights, Inc., a corporation, and Wardlow Annex, Inc., a corporation, et al., Civil No. 8452-PH, and the action entitled Tighe E. Woods, Housing Expediter, et al. vs. Sydney Mark Taper and Wardlow Annex, Inc., a corporation, Civil No. 8453-PH, were for all purposes insofar as the facts permit, consolidated for the purpose of trial and for the purposes of all hearings on the various motions before this Court, said consolidation being by way of a stipulation entered into by the plaintiffs and defendants under date of September 27, 1948;

2. That said stipulation provided that all three actions shall be consolidated into Case No. 8451-PH and treated as one case.

3. That the allegations of Paragraphs I, II, III,

IV, V, VI and VIII of the plaintiff's complaint are true.

4. That it is true that on or about June 3, 1948, the defendants, as landlord, commenced proceedings to evict from the Housing Accommodations at No. 2538 Gale Avenue, Long Beach, California, one Alvin L. Fite, a tenant thereof and other persons [170] lawfully in occupancy thereof, by serving a notice to quit, basing said notice expressly on the landlord's desire in good faith to recover possession of such housing accommodations for the immediate purpose of withdrawing such housing accommodations from the rental market and such housing accommodations shall not thereafter be offered for rent as such; that likewise similar notice on similar grounds was served on Lucy A. Heustis, who is a tenant at the property at 3500 Easy Avenue, Long Beach; on Paul R. Moberly, who is a tenant at 3533 Fashion Avenue, Long Beach; on Henry Monkiewicz, who is a tenant at 3557 Fashion Avenue, Long Beach; and on Max Ravnitzky, who is a tenant at 3733 Easy Avenue, Long Beach, California.

5. That Alvin L. Fite and Henry Monkiewicz voluntarily vacated the said premises prior to any proceedings brought against them in connection with said eviction and that as to said properties this action is moot.

6. That the defendants have filed affidavits by which affidavits they allege that they seek to remove the property from the rental housing market as such and that they will not thereafter so long as

the said housing and rent act of 1947 or any amendments thereto, or any regulations thereunder remain in full force and effect, offer such housing accommodations for rent as such.

7. That the defendants have voluntarily offered that any decree of this court contain a condition or provision that said housing accommodations are to be removed from the rental market as such and that so long as the housing and rent act of 1947 or any amendment thereto and the regulations thereunder, remain in full force and effect, and prohibit said premises from being placed on the rental market as housing accommodations that the defendants will not offer said properties for rental as housing accommodations as such .

8. That the defendants have further offered to have any [171] judgment or decree contain a provision or condition that if after the said housing accommodations are removed from the rental market and if after such removal from the rental market the defendants should sell said properties, that any sale which the defendants may enter into subsequent to the property being removed from the rental market would contain a provision in such agreement of sale that the purchaser of said property would not thereafter offer to rent nor would he rent said property as housing accommodations so long as the Housing and Rent Act of 1947 or any amendment thereto and the regulations thereunder, remain in full force and effect and prohibit said property from being placed on the rental market for use as housing accommodations.

9. The Court further finds that Section 209(a) (5) of the Housing and Rent Act of 1948, 50 U.S.C.A. Appendix, dated August, 1948, Section 1899, provides for eviction on the following ground:

“The landlord seeks in good faith to recover possession of such housing accommodations for the immediate purpose of withdrawing such housing accommodations from the rental market and such housing accommodations shall not thereafter be offered for rent as such.”

The Court further finds that said section 209(a) (5) of the Housing and Rent Act of 1948, 50 U.S.C.A. Appendix, dated August, 1948, is applicable to the facts presented by the plaintiff's complaint, and the defendants' answer and that the defendants have a right to evict tenants from properties leased to said tenants so long as there is first served upon said tenants a sixty-day notice in writing as is required by the Housing and Rent Act of 1947, and the amendments thereto and so long as the defendants seek in good faith to remove said properties from the rental housing market as such and so long as the defendants will not thereafter offer such housing accommodations for rent as such.

10. That it is not true that the defendants sought to evict [172] tenants for the purpose of making said housing accommodations vacant but the Court finds that the purpose for which said notices were served was for the purpose of removing said housing accommodations from the rental

market as such and the court finds that after said housing accommodations are removed from the rental market the defendant has the right to deal in an with his property as he sees fit so long as he does not offer to rent said housing accommodations and so long as he does not permit the housing accommodations to be rented as such.

11. That Paragraphs X and XI of plaintiff's complaint are untrue.

12. That the allegations of Paragraphs I, II and III of the denfendants' Answers are true.

13. That the preliminary injunction granted in this action should be dissolved and that the plaintiff is not entitled to any restraining order or any other relief.

14. That the defendants are entitled to judgment and decree dissolving the preliminary injunction and a decree establishing the right of the defendants to proceed with eviction so long as they serve the necessary notice as required by law and so long as they remove the housing accommodations from the rental housing market and so long as said properties will not thereafter be offered for rent as housing accommodations so long as there remains in full force and effect the Housing and Rent Act of 1947, or any amendments thereto or any regulations thereunder which prohibit the rental of such housing accommodations as such.

From the foregoing Findings of Fact the Court makes the following Conclusions of Law:

That defendants are entitled to a judgment dissolving the preliminary injunction and a decree in their favor by which decree it shall be provided that the defendants have the right to proceed [173] with any eviction upon condition that they comply with the rules and regulations concerning evictions by serving the required sixty-day notice as is required by the Housing and Rent Act of 1947, and the amendments thereto and so long as the said housing accommodations are removed from the rental market and so long as the defendants will not offer such housing accommodations for rent and so long as the defendants withdraw such housing accommodations from the rental market and such housing accommodations are not thereafter offered for rent as such and so long as the defendant will contain in any agreement of sale that they may make or enter into after said housing accommodations are removed from the rental market as such; that such purchaser will not thereafter so long as the Housing and Rent Act of 1947, or any amendment thereto and the regulations thereunder, remain in full force and effect and which prohibit said premises from being placed on the rental market as housing accommodations, offer such housing accommodations for rent as such.

Let judgment be entered accordingly.

Dated this 5th day of October, 1948.

/s/ CHARLES C. CAVANAH,
Judge.

(Acknowledgment of Service attached.)

[Endorsed]: Filed October 13, 1948.

In the District Court of the United States Southern
District of California, Central Division

Civ. No. 8451-PH

TIGHE E. WOODS, HOUSING EXPEDITER,
OFFICE OF THE HOUSING EXPEDITER,
Plaintiff,

vs.

SYDNEY MARK TAPER, HARDING MANOR
INC., a corporation, DOE I and DOE II,
Defendants

Civ. No. 8452-PH

vs.

SYDNEY MARK TAPER, WARDLOW
HEIGHTS, INC., a corporation, WARDLOW
ANNEX, INC., a corporation, and HARDING
MANOR, INC., a corporation,
Defendants

Civ. No. 8453-PH

vs.

SYDNEY MARK TAPER, WARDLOW AN-
NEX, INC., DOE I, DOE II and DOE III,
Defendants.

DECREE

The defendants' Motion for Summary Judgment in the above-entitled consolidated action having come on regularly for hearing before the Court on the 27th day of September, 1948, Abe I. Levy, Stephen D. Monahan, Frank L. Hirst, Richard G. Solof and Benjamin Chapman, by Benjamin Chap-

man, appearing as attorneys for the plaintiff, and Albert H. Allen and Hyman Goldman, by Albert H. Allen, [176] appearing as attorneys for the defendants, and the defendants having withdrawn their affirmative defenses set up by their Answers, and the Court having examined the pleadings, papers, records and files in the herein actions, and having examined defendants' Motion for Summary Judgment, the affidavits and Points and Authorities in support thereof, and having examined the affidavits and Points and Authorities in opposition to said Motion, and the Court having heard the argument of counsel both in support and in opposition to the said Motion, and the defendants having offered to have any judgment or decree of this Court contain a provision that if the defendants should withdraw the premises herein involved from the rental market, that they will not thereafter offer for rent said premises as housing accommodations so long as the Housing and Rent Act of 1947 or any amendment thereof and the regulations thereunder remain in full force and effect and prohibit said premises from being placed on the rental market as housing accommodations, and the defendants having represented that any agreement of sale which defendants may enter into subsequent to the property being removed from the rental market would contain a provision in such agreement of sale that the purchaser of said property would not thereafter offer to rent or rent said premises as housing accommodations, so long as the Housing and Rent Act of 1947 or any amendment thereof and the

regulations thereunder remain in full force and effect and prohibit said property from being placed on the rental market for use as housing accommodations, and the Court being fully advised in the premises and having directed that judgment be entered in accordance therewith, Now Therefore by reason of the law aforesaid:

It is Hereby Ordered, Adjudged and Decreed that the defendants' Motion for Summary Judgment be granted, that plaintiff take nothing by reason of his complaint, and that the preliminary injunction heretofore granted be and the same is hereby dissolved.

It is further ordered, adjudged and decreed by the Court [177] that the defendants, Sydney Mark Taper, Harding Manor, Inc., a corporation, Wardlow Heights, Inc., a corporation, and Wardlow Annex, Inc., a corporation, have the right to evict tenants in possession of the property described in the complaints herein, in accordance with the notice heretofore given by the defendants to said tenants, pursuant to Section 209(a)(5) of the Housing and Rent Act of 1947, as amended, on the ground that the defendants desire in good faith to recover possession of such housing accommodations for the immediate purpose of withdrawing such housing accommodations from the rental market and such housing accommodations shall not thereafter be offered for rent as such. That as long as the Housing and Rent Act of 1947, as amended, and the regulations thereunder prohibit the properties in-

involved herein from being rented as housing accommodations, the defendants will not offer or rent said properties as housing accommodations or place said properties on the rental market as housing accommodations; and in addition, should the defendants sell any of the properties set forth in the plaintiff's complaints and now owned by the defendants, then said agreement of sale shall provide that the purchaser thereof will not place said premises on the rental market to be used as housing accommodation so long as the Housing and Rent Act of 1947, as amended, and the rent regulations thereunder prohibit said premises from being rented or offered for rent as housing accommodations.

Dated: October 13, 1948.

/s/ CHARLES C. CAVANAH,

Judge of the United States
District Court.

Approved as to form. Abe I. Levy, Stephen D. Monahan, Frank L. Hirst, Richard G. Solof and Benjamin Chapman.

Judgment entered October 13, 1948. Docketed October 13, 1948. Book 53, Page 333.

(Affidavit of Service by Mail attached.)

[Endorsed]: Filed October 13, 1948. [178]

[Title of District Court and Cause.]

NOTICE BY CLERK OF ENTRY
OF JUDGMENT

Albert H. Allen & Hyman Goldman, Esqs., Abe I
Levy, Esq., and Benjamin Chapman, Esq.

Re: 8451-PH—Tighe E. Woods, etc. v. Sydney Mark
Taper, et al.

8452-PH—Tighe E. Woods, etc. v. Sydney Mark
Taper, et al.

8453-PH—Tighe E. Woods etc. v. Sydney Mark
Taper, et al.

You are hereby notified that Judgment has been
entered this day in the above-entitled case, in Civil
Order Book No. 53, page 333.

Dated October 13, 1948, Los Angeles, California

By /s/ EDMUND L. SMITH, Clerk.

[Title of District Court and Cause.]

NOTICE OF APPEAL

Notice is hereby given that Tighe E. Woods,
Housing Expediter, Office of the Housing Expe-
diter, plaintiff above named, hereby appeals to the
Circuit Court of Appeals for the Ninth Circuit
from the final judgment entered in above entitled
consolidated action on October 13, 1948 and dock-
eted in Civil Order Book No. 53, Page 333. Said
judgment is for all of the defendants and against
said plaintiff and said judgment grants the motion
of all of the defendants for [181] a summary judg-
ment. Said judgment also is that plaintiff take

nothing by the complaint and that the preliminary injunction theretofore granted be dissolved and said judgment declares the rights of the defendants. Plaintiff appeals from the entire judgment.

Dated: Los Angeles, California, this 8th day of November, 1948.

ABE I. LEVY,
STEPHEN D. MONAHAN,
FRANK L. HIRST,
RICHARD G. SOLOF,
BENJAMIN CHAPMAN,

By /s/ ABE I. LEVY,

Attorneys for Plaintiff and Appellant Office of the Housing Expediter.

[Endorsed]: Filed November 8, 1948. [182]

[Title of District Court and Cause.]

CERTIFICATE OF CLERK

I, Edmund L. Smith, Clerk of the United States District Court for the Southern District of California, do hereby certify that the foregoing pages numbered from 1 to 185, inclusive, contain full, true and correct copies of Complaint for Preliminary and Final Injunction and for Other Relief; Affidavits in Support of Plaintiff's Motion for Preliminary Injunction; Order to Show Cause; Findings of Fact and Conclusions of Law; Decree for Preliminary Injunction; Answer; Plaintiff's Request for Admissions Pursuant to Rule 36; Answer

to Request for Admissions; Notice of Motion for Summary Judgment; Motion for Summary Judgment; Affidavit of Sydney Mark Taper; Statements and Points and Authorities in Opposition to Motion; Additional Points and Authorities; re Motion for Summary Judgment; Affidavit of Harold C. Frerks; Memorandum in Opposition to Motion for Summary Judgment; Affidavit of Alvin L. Fitts (Mrs.); Affidavits in Opposition to Defendants' Motion for Summary Judgment and Stipulation and Order all in case No. 8451-PH and Complaint for Preliminary and Final Injunction and for Other Relief; Affidavits in Support of Plaintiff's Motion for Preliminary Injunction; Order to Show Cause; Findings of Fact and Conclusions of Law; Decree for Preliminary Injunction; Answer; and Stipulation and Order Incorporating Material from Companion Case all in case No. 8452-PH and Complaint for Preliminary and Final Injunction and for Other Relief; Affidavits in Support of Plaintiff's Motion for Preliminary Injunction; Order to Show Cause; Findings of Fact and Conclusions of Law; Decree for Preliminary Injunction; Answer and Stipulation and Order Incorporating Material from Companion Case all in case No. 8453-PH and Plaintiff's Objections to Proposed Offered Judgment; Affidavits of Hettyleigh Catlett; Plaintiff's Objection to Proposed Findings of Fact and Conclusions of Law; Finding of Fact and Conclusion of Law; Decree; Notice of Entry of Judgment; Notice of Appeal and Designation of Record on Appeal all entitled in cases Nos. 8451-PH, 8452-PH

and 8453-PH which, together with copy of reporter's transcript of proceedings on September 27, 1948, transmitted herewith, constitute the record on appeal to the United States Court of Appeals for the Ninth Circuit.

Witness my hand and the seal of said District Court this 14th day of December, A.D. 1948.

(Seal) EDMUND L. SMITH, Clerk.

By /s/ THEODORE HOCKE,
Chief Deputy.

[Endorsed]: No. 12131. United States Court of Appeals for the Ninth Circuit. Tighe E. Woods, Housing Expediter, Office of the Housing Expediter, Appellant, vs. Sydney Mark Taper, Harding Manor, Inc., Wardlow Heights, Inc., and Wardlow Annex, Inc., Appellees. Transcript of Record. Appeal from United States District Court for the Southern District of California, Central Division.

Filed December 16, 1948.

/s/ PAUL P. O'BRIEN,
Clerk of the United States Court of Appeals for the Ninth Circuit.

In the United States Court of Appeals
For the Ninth Circuit.

No. 12131

TIGHE E. WOODS, Housing Expediter, Office of
the Housing Expediter,

Appellant,

vs.

SIDNEY MARK TAPER, HARDING MANOR
INC., a Corporation, DOE I and DOE II,

vs.

SYDNEY MARK TAPER, WARDLOW
HEIGHTS, INC., a Corporation, WARDLOW
ANNEX, INC., a Corporation, and HARDING
MANOR, INC., a Corporation,

vs.

SYDNEY MARK TAPER, WARDLOW ANNEX
INC., DOE I, DOE II, and DOE III,
Appellees.

STATEMENT OF POINTS ON APPEAL

For its Statement of Points on Appeal, appellant respectfully sets forth the following:

1. The Court below erred in holding that the appellees could evict tenants under Section 209(a)(5) of the Housing and Rent Act of 1947, as amended in order to make the housing accommodations vacant for purposes of sale.

2. The Court below erred in refusing to hold that Section 209(a)(5) of the Housing and Rent

Act of 1947, as amended, does not allow eviction of tenants for purposes of making accommodations more saleable, even though the decree prohibits appellees from offering to rent or renting the accommodations, and even though the decree requires an agreement of sale to provide that purchasers thereof will not place the accommodations on the rental market to be used as housing accommodations, so long as the Housing and Rent Act of 1947, as amended, prohibited the accommodations from being rented or offered for rent as such.

3. The Court below erred in granting summary judgment when the Answer, Requests for Admissions, Responses thereto, and Affidavits, established genuine issues of fact to be tried.

4. The Court below erred in refusing to grant the injunctive relief prayed for by the Complaint.

ED DUPREE,

General Counsel.

HUGO V. PRUCHA,

Assistant General Counsel.

NATHAN SIEGEL,

Special Litigation Attorney.

Office of the Housing Expediter, Office of the
General Council.

[Endorsed]: Filed January 7, 1949. Paul P.
O'Brien, Clerk.

